UNIVERSITY OF ALABAMA
EXTENSION NEWS BULLETIN

Counseling and Advisory Service

One of the most outstanding and practical services arranged by the Extension Division is its series of guidance conferences in which high school students are counseled concerning their future education, or training, and possible careers.

Last year guidance conferences were held in 56 high schools during the school year. Vocational and educational information was given to approximately 8,500 students by 100 faculty and staff members of the University, representatives of other institutions of higher learning, and business and professional people.

State vocational trade schools had representatives at all but three of the conferences and 56 business and professional people assisted with 32 of the conferences. Business and professional people included persons representing banking institutions, wholesale and retail merchandising establishments, hospitals, state and county agencies, manufacturers, insurance agencies, the Cooperative Agricultural and Home Extension Services and commercial and industrial organizations.

The key to a successful guidance conference is careful planning. Usually these conferences originate with a conference between a representative of the Extension Division's Counseling and Advisory Service and the school principal.

The conference date is set, meeting times are established so there will be a minimum of interference with regular classroom schedule, and some indications of the tentative interests of the students are obtained.

Usually students attending conferences indicate their interest in one or more major occupational groups. Among these are:

(1) *Professional, semi-professional, managerial, and official* — law, medicine, dentistry, teaching, science and mathematics, engineering, accounting, banking, insurance, technology, marketing, nursing, home economy, business management, administration, public service and others.

(2) *Clerical, sales, and kindred work*—typing, stenography, filing, general office work, salesmanship, shipping and receiving, office machine operations, and others.

(3) *Service occupations* — barbering, cosmetology, food service, hotel and motel management, fire protection, traffic control, armed services, laundering, dry cleaning and building services.

(4) *Agriculture, Forestry, Fishery* — general farming, husbandry, horticulture, professional agriculture and forestry, forest patrol and protection, and others.

(5) *Skilled trades and occupations*—carpentry, masonry, electricity, plastering, painting, auto mechanics and other mechanical trades, plumbing, heating, refrigeration, sheet metal work, and others.

(6) *Semi-skilled occupations*—truck driving, handling heavy automotive equipment, operation of machines in factories, and others.

(7) *Unskilled work*—During the conference each student meets with the consultant and the group which is scheduled to discuss the vocational opportunities, and personal educational requirements for reasonable success in the area of work in which he is most interested.

Students who plan to attend college are counseled concerning courses in the liberal arts, and in the professional schools and are advised about such things as entrance requirements, expenses, campus life, and course requirements in the various schools and colleges.

Throughout the conference, emphasis is placed on the importance of high school education and its relationship to further training and education as well as to increased opportunities for employment.

It is estimated that approximately three-fourths of all the graduates of Alabama high schools never enter college. However, many of these graduates continue their formal education in trade schools, private business schools, schools of barbering and cosmetology, and other schools and institutions.

For this reason, guidance conferences give careful attention to the students who indicate they may attend trade or technical schools. They are given information concerning expenses, kinds of training, and employment opportunities, usually by a representative of one of the state's trade and vocational schools.

Representatives of most of the major businesses, professions and industries also assist in the guidance programs. Last year, for example, the Junior Bankers Section of the Alabama Bankers Association was very active in high school conferences. Seven representatives of the Junior Bankers Section participating in conferences at 14 high schools, counseled students in the areas of banking and finance, executive and administrative work, bookkeeping and accounting, secretarial work, business machine operation, educational and training requirements and desirable personal qualities necessary for success in those fields.

Other representatives assisting in conferences included the County Health Departments of Cleburne, Escambia, Etowah, Houston, Madison and Shelby Counties.

Consultants are also provided for those students whose formal education may terminate with the high school. They are advised as to those high school courses which may be of most help to them. They are also given information concerning employment and opportunities which may be available for continuing their education on a part-time basis while in regular employment.

No particular organizational pattern for a guidance conference would meet the needs of all students nor fit into the program of every school. However, the Extension Division's Counseling and Advisory Service has found that some features seem to be included in most of the more successful conferences.

These are such things as careful planning, some continuity of purpose, sometimes joint participation by parents and students, and an evaluation session following the conference.

Preliminary planning is by far the most important aspect of a successful conference. The mechanics of the conference – including the date, exact hours, and meeting places for the assembly and small group conferences—must be established so that students and teachers will be familiar with the program for the day.

It is also very important that the tentative plans and interests of each student who is to participate in the conference be identified so that the appropriate advisors and counselors will be made available for the conference.

These plans and interests can be determined by preliminary conferences, careful examination of scholastic records, administration and evaluation of tests, and suggestions from classroom teachers who might be aware of their students' interests and aptitudes.

In fact, the successful conference is but a small part of a school's guidance program.

A brief assembly of students, featuring a keynote address on the importance of careful educational and vocational planning, and the introduction of consultants who will participate in the conference, may sharpen the interests of the students in the program for the day.

The most effective size for group meetings seems to range from a half dozen to 20. Homogeneity of interest seems to be the most important feature of the individual discussion group.

Quite often parents manifest a keen interest in this type of group guidance and joint participation of parents and students may encourage students to be more realistic about their tentative plans. Effective joint participation, however, requires very careful orientation of the parents concerning the nature and purposes of the conference.

An evaluation session following the conference when students, parents, teachers and consultants may discuss the program frankly and freely, often proves helpful. Some schools have found that refreshments add to the informality of the evaluation session which aids those planning a comparable program the following year.

Guidance conferences were held in the following schools during the school year 1958-59.

Ashford
Ashland
Atmore
Bay Minette
Boaz
Brundidge
Buckhorn
Butler
Calera
Carrollton
Chatom
Clanton
Columbia
Columbiana
Cullman
Decatur
Enterprise
Eutaw
Fairhope
Fairview
Flomaton
Florala
Foley
Gorgas
Greensboro
Guntersville
Gurley
Hazel Green
Headland
Heflin
Hokes Bluff
Isabella
Kennedy
Liberty
Lineville
Luverne
Maplesville
Millport
Moundville
New Hope
Ozark
Pine Hill
Prattville
Ranburne
Reform
Rehobeth
Robertsdale
Sardis
Siluria
Sparkman
Straughn
Sweet Water
Thomasville
Verbena
Vincent
Wetumpka

The University's Audio-Visual Service has a large collection of 16 mm. films designed specifically for instructional purposes. These films relate to numerous topics at all grade levels. They are available to schools and churches on a rental basis. Address inquiries, orders, reports, and other communications to:

Director, Audio-Visual Service
Box 1991
University, Alabama

State Wide Journalism Competitions

Each year the Extension Division tries to assist high school students and their faculty directors by making available to them the resources of the University's Department of Journalism.

A high school journalism clinic, featuring awards to the state's top high school newspapers and yearbooks, is held on the campus of the University each fall. Whenever personnel of the Department of Journalism can assist, one or more clinics are held off the campus each year.

The 1958 conference held November 7-8, was the 22nd Annual Journalism Clinic and High School Press Association meeting.

The conference included separate clinics for students and directors interested in yearbooks, newspapers, and photography. Highlight of the conference was the awards banquet, Friday evening November 7, when the winners in the newspaper and yearbook competition were announced.

C. C. Thomason, editor of The Industrial Press at Ensley and at that time president of the Alabama Press Association, spoke to the group on "You Can't Wash Off Printer's Ink."

Awards were made to the following winning high school yearbooks and newspapers.

YEARBOOKS

Sweepstakes—Coffee High School
Class A—Tuscaloosa High School
Class B—Bibb County High School
Class C—Mars Hill Bible School

NEWSPAPERS

Sweepstakes—Vigor Hi Lites
Class A—Murphy Hi Times
Class B—The McGillian (McGill Institute)
Class C—The Spectator (St. Bernard Preparatory School)
Mimeographed Newspaper—The Spotlight (Montevallo)

PHOTOGRAPHY

Best photo of sports event—Charles Williams, Opp High School
Best photo of news—Roger Givens, Tuscaloosa High School
Best posed photo—Glenn Jett, Woodlawn High School

So that smaller schools will not have to compete with larger institutions, the high schools of the state have been grouped into classes for the purpose of the yearbook and newspaper contest. The groups are:

Class A—Schools with enrollments of 800 or more
Class B—Schools with enrollment of 300 to 799
Class C—Schools with enrollments of 299 or less

The meetings of the Alabama High School Press Association, and the Alabama Association of Journalism Directors and the 23rd annual Journalism Clinic will be held on the University campus this year December 4-5, 1959.

The following schools were represented at the 1958 clinic:

Athens
Atmore
Banks
Benjamin Russell
Barry
Bessemer
Butler
Central (Phenix City)
Chatom
Clayton
Cullman
Dothan
Ensley
Foley
Gadsden
Grand Bay
Hueytown
Lincoln
Livingston
McGill Institute
Mars Hill
Mercy (Mobile)
Montevallo
Mortimer Jordan
Murphy
Opp
Phillips
Robert E. Lee
Robertsdale
Russellville
St. Bernard
Semmes
Sewell
Shades Valley
Sheffield
Tallassee
Troy
Tuscaloosa County
Tuscaloosa City
Vernon
Vigor
Winfield
Julius T. Wright (Mobile)
York

Two groups connected with high school journalism hold yearly meetings during the annual journalism clinic. They are the Alabama Association of Journalism Directors, an organization of journalism instructors and student faculty advisors; and the Alabama High School Press Association.

At the Journalism Directors' meeting Brother Alton, S.C., of McGill Institute at Mobile was elected president of the association. Other officers elected were William Goss, Troy High School, vice president; Mrs. Anita Grimes, Vigor High School, Prichard, secretary, and Mrs. Betty Nelson, Opp High School, treasurer.

Elected president of the Alabama High School Press Association was Forrest Brown, Montevallo High School. Other officers elected were Tom Fitzpatrick, McGill Institute, Mobile, vice president, and John Gentry, Murphy High School, Mobile, secretary.

In order to promote wider interest in the Alabama High School Press Association's activities, the state was divided into six districts. A high school student was appointed to serve as chairman in each district, to communicate with other students in his district to determine their greatest needs for help in their journalism activities, and to assist with the planning of the journalism clinics.

Twenty-three high schools from the Wiregrass area were represented by approximately 180 students at a regional journalism clinic held at the Dothan Center last November.

The clinic was sponsored by The Dothan Eagle and the Dothan University Center through the cooperation of the Extension Division's Department of Counseling and Advisory Service and the University's Department of Journalism.

Music Festivals and Concerts

Each year the University's Department of Music, with some assistance from the Extension Division, presents a limited number of music programs in Alabama elementary and secondary schools.

The programs are presented by the University of Alabama Quartet composed of faculty members, and by University students who present varied programs under the direction of their instructors.

Availability of faculty personnel and students as well as travel funds limit the number of programs the Department is able to provide. However, during the school year 1958-59 the String Quartet alone gave concerts in 11 Alabama elementary and secondary schools to a combined audience of 3,400.

The Quartet also presented programs before two Parent-Teacher Association meetings with combined attendance of 600. Other concerts were presented at schools outside the state.

Alabama schools where concerts were given last year included University Place, Tuscaloosa; Tuscaloosa Junior High School; Sidney Lanier High School, Montgomery; Northington and Alberta schools at Tuscaloosa; Woodlawn High School, Birmingham; Shades Cahaba, Birmingham; and Ozark.

The programs were presented without any expense to the schools or the students who attended the concerts.

Typical of the music programs conducted by University students was a concert at Walker County High School last May.

Plans for the program began when Geddes Self, Principal of the Jasper school, requested Dr. Wilbur H. Rowand, head of the University's Department of Music, to arrange a concert for the students and faculty members of the school.

Approximately 900 students and faculty members as well as a number of persons from the community attended the concert performed by five University students under the direction of Dr. Rowand.

They were Jean Phillips, violinist; Mary Benson, pianist; William Harrell, pianist; Jerry Sampson, pianist; and Gene Jarvis, pianist.

One or more student music tours of this type are now being planned for the fall of 1959 and the spring of 1960. It may be possible to include several schools in the same section of the state in each tour.

Beginning with the next school year, the University of Alabama Orchestra will provide an opportunity for high school students – pianists, violinists, singers – to perform concertos and operatic arias with the orchestra in concert. Auditions will be held on January 23, 1960, in Morgan Auditorium on the University campus for the selection of the students who will have the opportunity of performing on the orchestra concert. This will be an annual project.

Information can be obtained from W. H. Rowand, Department of Music, Box 2886, University, Alabama.

Two music events especially for high school bands, choral groups, and individual instrumentalists and singers are scheduled on the University campus during the spring of each year.

These events are projects of the Alabama Music Educators Association. This organization plans and directs these festivals. The University serves as host to the persons directing and participating in the festival. The University's Department of Music and Extension Division assist in arranging housing accommodations, classroom space for practice, and space for concerts.

The earliest scheduled event—usually in March —is the All-State Band, Choral and Orchestra Festival scheduled next year for March 14-16, 1960.

Participants in this event are individuals or groups (not the entire high school band) who have been given high ratings in regional competitions. These instrumentalists and members of choral groups then vie for selection to play in the All-State Orchestra, one of three All-State Bands, or the All-State Choral.

A public concert featuring performances by the All-State Choral, the All-State Orchestra and the three All-State Bands (Red, White and Blue according to the rating of the individual performers) closes the March Festival.

The second music event designed for high schools is the Annual Band, Choral and Piano Competition Festival scheduled next year for April 20-23, 1960.

Participants in this festival are entire bands, choral groups and also pianists. As in the March festival regional competitions in which adjudicators rate the bands as superior, excellent, good or average precede the University festival.

Bands electing to participate in the competition are then scheduled for final ratings at the University. These bands, choral groups and pianists are given an over-all rating after adjudicators have rated them on such things as sight reading, and concert performance.

About 75 high schools and approximately 50 choral groups for a total of approximately 5,500 students participate in the April event.

About 1,000 students representing approximately 50 schools participate in the All-State Band Festival in March.

For further information on the University's Counseling and Advisory Service, forensic activities, and journalism clinics write:

HUGH L. TAYLOR
Box 2987
University, Ala.

High School Forensic Activities

Interest and participation in high school debating and speech within the school and in competition with other institutions is stimulated by the Alabama High School Forensic League program and by the Annual Forensic Tournament held on the University campus each spring.

Discussion clinics were held at five University centers during November and December of last year. Twenty-four schools were represented by 263 students and faculty directors in the clinics held at Birmingham, Dothan, Montgomery, Mobile, and Huntsville.

Non-decision debate meets in which 225 students and faculty members representing 22 high schools participated were held last February at four University centers.

Eighteen high schools were represented by 140 students at the 1959 tournament held on the campus March 18-21. In addition to the debate tournament, competitions were held in men's extemporaneous speaking, women's extemporaneous speaking, men's after-dinner speaking, women's after-dinner speaking, men's poetry reading and women's poetry reading.

One-year tuition scholarships to the University of Alabama were given by the University to each of the four students scoring highest as individual debaters.

Scholarship winners were Sally Grimmer, Woodlawn High School, Birmingham; Julian McDonnell, McGill Institute, Mobile; Bonnie Cofield, Woodlawn High School, Birmingham; and Jean Adams, Bishop Toolen High School, Mobile.

The debate topic was "Resolved: That the United States should adopt the essential features of the British system of Education."

The affirmative team from Woodlawn High School consisting of Bonnie Cofield and Sally Grimmer was rated by the judges as the best team in the tournament. Other teams rated superior were Brenda Boone and Mike Brannon, Phillips High School; Mike Allen and Julian McDonnell, McGill Institute; and Ina Branham and Fred Milloit, Woodlawn High School.

Winners in the other events of the tournament were:

Women's Poetry Reading—
Anne Cox, Shades Valley High
Women's Extemporaneous Speaking—
Ina Branham, Woodlawn High
Men's After-Dinner Speaking—
Bill Middleton, Ensley High
Women's After-Dinner Speaking—
Janeal Nichols, Shades Valley High

The Alabama High School Forensic League held its annual meeting on the campus last March during the three-day tournament.

During the meeting there was keen interest shown in the question of having two or more divisions of events in the annual tournament and if so, how the divisions should be set up.

There was general agreement among members of the League that discussion meetings and non-decision debates held at University centers throughout the year had been helpful to high school students and their faculty directors.

The members of the League directed its executive committee to make a study of the most feasible basis or bases for dividing the schools into groups and to submit their findings to the membership.

The membership will be asked to vote by mail ballot on the recommendations of the executive committee sometime during the early fall of this year. It is hoped that the 1959-60 program will be developed according to the newly adopted plans.

Among the possible bases for dividing the schools into divisions considered by the group were: (1) the number of students enrolled in specified grades of the schools, (2) whether or not the forensic program in the school is part of the curriculum or is an extracurricular activity, (3) whether or not a regular teacher of speech is employed in the school, (4) a certain number of years of state-wide competition, and (5) election by the school.

Members of the executive committee are Miss Janelle Beauboeuf of the University's Department of Speech; Dr. Hugh L. Taylor, University Extension Division; Mrs. Charles E. Porterfield, Fairfield High School; Mrs. Glenda Jordan, Murphy High School, Mobile; Miss Gladys McNair, Tallassee High School; and Mrs. Janet LeFevre, Anniston High School.

Unusually keen interest was shown in forensics last year by students and faculty directors of Tennessee Valley high schools.

Seven high schools represented by seventy-five students and faculty directors participated in a discussion clinic at the Huntsville Center December 4, 1959.

Advance preparation for the clinic was made by Homer Crim, Principal of Butler High School, and Philip M. Mason, Director of the Huntsville Center.

Barron B. Collier, instructor in speech with the University's Department of Speech, assisted by advanced college speech students, outlined some techniques of discussion. After emphasizing the importance of the physical setting, leadership, information on the part of all participants, and tolerance of other people's opinions, Mr. Collier discussed the problem area for the year.

The problem area chosen for high school discussion for the year 1959-60 is: What Policy in Labor-Management Relations Will Best Serve the People of the United States?"

It appears at this time that the debate proposition may be: "Resolved, That Section 14 (b) of the National Labor Relations Act (Taft-Hartley) Should Be Repealed."

The University's Extension Division is in the process of assembling materials relating to this problem area. Some of these materials will be provided those schools paying a registration fee of $1.00. Additional materials will be distributed at relatively low cost to those schools desiring them.

The National University Extension Association is printing two volumes, or debate manuals, as has been the custom during recent years. These will be distributed to member schools.

This year's problem area was chosen by a majority vote of the various state leagues. Other problems considered for high school discussion topics included how the security of the free world could best be maintained, and the proper division of power in the United States between federal and state governments.

Present plans call for additional meetings in the fall and spring semesters of the coming school year. Miss Beauboeuf of the University Department of Speech, in cooperation with the directors of speech at the various centers will have charge of the programs. Other members of the Department of Speech and advanced students in speech will assist her.

The schedule of the fall meeting is:

Birmingham Center—December 11, 1959
Dothan Center—December 7, 1959
Gadsden Center—December 16, 1959
Huntsville Center—December 15, 1959
Mobile Center—December 1, 1959
Montgomery Center—December 8, 1959

The second series of meetings, which will be non-decision debates, is scheduled for the month of February. The spring schedule is:

Birmingham Center—February 18, 1960
Dothan Center—February 8, 1960
Gadsden Center—February 12, 1960
Huntsville Center—February 11, 1960
Mobile Center—February 15, 1960
Montgomery Center—February 9, 1960

The Alabama High School Forensic Tournament will be held on the campus of the University March 24-26, 1960.

For debating purposes, Alabama schools will be divided into two groups for the Tournament next March and an additional University scholarship has been provided for the top debater in Group II. The four scholarships given in the past will go to top ranking debaters in Group I. Bases for dividing the schools into the two groups have not yet been determined, however, final decisions based on a poll of the membership of the Alabama High School Forensic League will be reported in the near future. The five awards are one-year tuition scholarships.

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UNIVERSITY OF ALABAMA

EXTENSION NEWS BULLETIN

"The University Campus Covers the State"

September, 1959 UNIVERSITY, ALABAMA Vol. 17, No. 3

Conference Activities Scheduled For Fall, 1959

Twenty-two conferences are scheduled to be held on the main campus, using University facilities and resource personnel, through the middle of January, These conferences, clinics and workshops are listed below.

Sept. 18-19	Seminar, Advertising and Photography
Sept. 28	CPA Review Course (Part I: Accounting Theory)
Oct. 2-3	Southeastern Simulation Conference
Oct. 5	CPA Review Course (Part II: Accounting Practice)
Oct. 9-10	Choral Reading Clinic
Oct. 9-10	Alabama Broadcasters' Association Study Conference
Oct. 15-16	Quality Control Conference
Oct. 19	CPA Review Course (Part III: Auditing)
Oct. 22-24	Alabama Probation and Parole Study Conference
Oct. 26	CPA Review Course (Part IV: Commercial Law)
Nov. 2-6	Rehabilitation Conference on Sheltered Workshop Management
Nov. 5-6	International Association for Personnel in Employment Security Study Conference
Nov. 6-7	Credit Union Institute
Nov. 6	Alabama Discussion Conference
Nov. 13	Circuit Judges Conference
Nov. 20-21	Federal Tax Clinic
Dec. 4-5	Journalism Clinic
Dec. 10-11	Personnel Management Conference
Dec. 11-12	Band Reading Clinic
Jan. 9-10	Community Theater Workshop
Jan. 11-12	Urban Renewal Conference
Jan. 14-15	Highway Right of Way Conference

Huntsville Center To Break Ground Soon

Ground may be broken to signal the start of construction on the new Huntsville resident center before the end of October.

Dean J. R. Morton of the UA Extension Division, expressed hope that ground-breaking ceremonies can be held "within the next six or seven weeks."

According to Dean Morton, bids for construction should be let within thirty days for the proposed two-story building which will house 2,000 part-time students.

Construction of the $750,000 center probably marks the first time anywhere in the South, said Dean Morton, that a county, a city, and an institution of higher learning have cooperated in this way.

Officials of Madison County, the City of Huntsville, and the University are expected to participate in ceremonies for the ground-breaking.

The City of Huntsville provided $250,000 toward the cooperative venture and gave the 80-acre campus site. Madison County contributed $250,000 and the University of Alabama a like amount toward the new building.

Students from seven north Alabama counties, now attending center classes in Butler High School, will have easy access to the new facility via four highways now in existence and a proposed, intersecting "wagon wheel" highway to circle the city of Huntsville.

The center will be located on highway 72 west of Huntsville, just within the city limits.

Architect W. R. Dickson has drawn plans for a two-story Georgian style brick building with white columns.

Scheduled to begin operating next year, the new center will provide three years of undergraduate work for students, many other educational services for adults, and numerous opportunities for graduate study.

In addition to the estimated $750,000 cost of the building, the 80-acre site donated to the Uni-

(Continued on page 2)

New Appointees Named

So far there have been ten new appointments to resident center faculties, according to an announcement by Dean John R. Morton of the UA Extension Division.

Added to the Birmingham Center staff are: Dr. Joseph H. Appleton, professor in engineering; Michael E. Bohleber, instructor in sociology; Richard O. Evans, lecturer in management; Mrs. Frances M. Fletcher, instructor in chemistry; Mrs. Betty C. Foley, lecturer in theater arts and associate director of Town and Gown Civic Theater; Donald E. Jackson, instructor in psychology; William C. Reynolds, Jr., lecturer in engineering and management.

Talmadge E. Harris will become assistant professor in accounting at the Mobile Center.

At the Huntsville Center two new faculty members have been named. They are: Dr. E. C. Paustian, lecturer in sociology and economics; Edwin M. Bartee, associate professor in engineering.

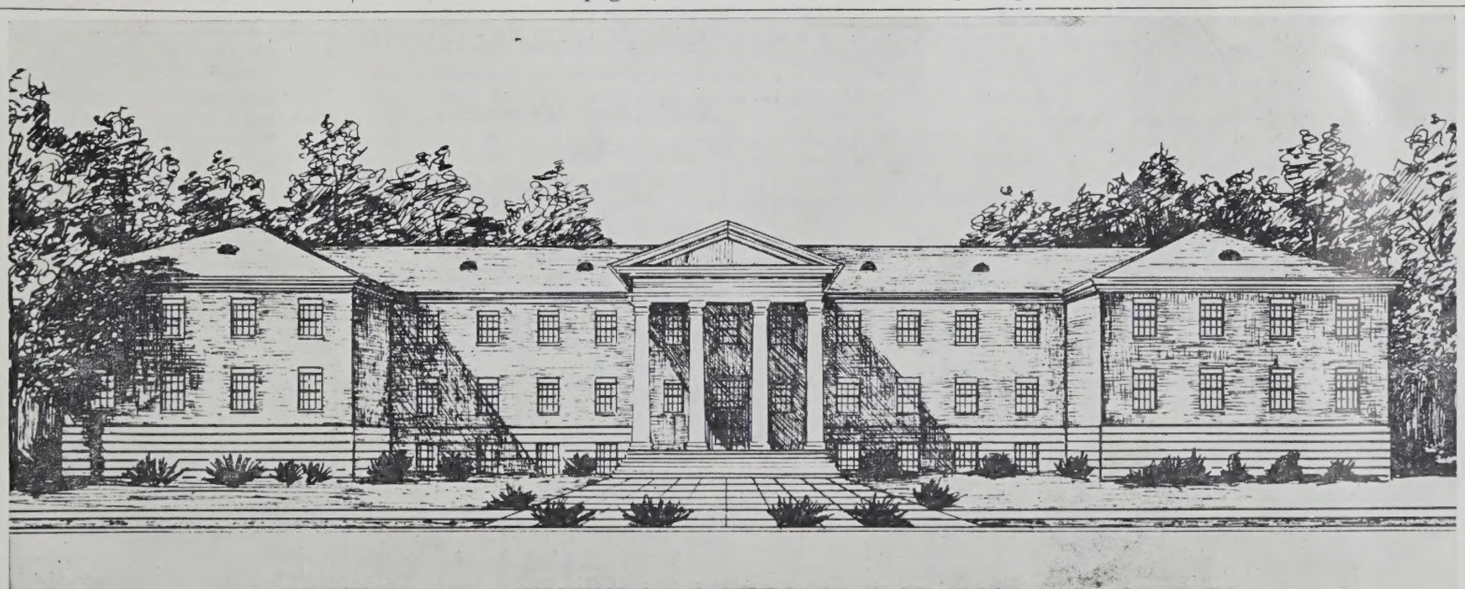
Fall ETV Schedule Best Ever

This fall begins the largest variety and number of live ETV series ever to be aired from the University of Alabama television studios.

Five series are being offered for college credit, with three in-school full courses and five in-school enrichment series televised between 8 a.m. and 3 p.m. Late afternoon and evening hours are provided with twelve cultural and enrichment series.

The college credit telecourses, aimed at an adult audience, include: French III, taught by Professor Wade Coleman of the Romance languages department; Accounting I, taught by Dr. P. B. Yeargan, associate professor of accounting; and Alabama Government, taught by Dr. Coleman Ransone, professor of political science; and Dr. Charles D. Perry, head of the department of clas-

(Continued on page 2)



ARCHITECT'S CONCEPTION OF NEW HUNTSVILLE CENTER

GROUNDBREAKING "SOON"
(Continued from page 1)

versity by the city of Huntsville is estimated to be worth approximately $200,000.

The Huntsville center opened its doors in 1950 with 139 students taking courses. The last enrollment check in 1958 showed 1,729 students.

Parliamentary Law Offered In B'ham

The Birmingham Center will provide a special workshop in Parliamentary Law for officers and leaders of civic, professional, religious, and recreational clubs and agencies October 19-20.

The workshop is an outgrowth of requests from individuals and various organizations in the Birmingham area who have realized the need for such instruction in order that well-conducted meetings might improve their programs and stimulate the interest of members.

Dr. T. Earle Johnson, head of the Speech Department at the University, will conduct the workshop.

Wright Attends Harvard Parley

Growing awareness and increased practice of good business ethics are occurring here in America.

This was the concensus of opinion of 35 educators, businessmen and ministers who met last summer at Harvard University at the annual summer seminar on "Religion and Morality in Business Administration.

UA Commerce Extension Director Gordon Wright, who attended the two-week seminar as a Danforth Fellow, said: "We concluded that this practice is based on a growing conviction of American businessmen at all levels that 'good business is good ethics.'"

Managers of Workshops For Handicapped Will Meet at UA Nov. 2-6

Managers of sheltered workshops for handicapped persons will meet at the Capstone November 2-6 for a four-day conference.

Six states will send representatives to the regional meeting. These include: Florida, South Carolina, Georgia, Tennessee, Mississippi, and Alabama.

The Rehabilitation Conference for Sheltered Workshop Management is expected to draw some 75 persons to the UA main campus.

Experts in this specialized rehabilitation field from all over the United States will lead discussions and deliver addresses to the delegates.

Members of the Planning Committee for the conference include: Dr. Robert C. Adair, Goodwill Industries, St. Petersburg, Fla.; J. E. Hammett, State Supervisor of Vocational Rehabilitation Services, Columbia, S. C.; George M. Hudson, State Supervisor, Vocational Rehabilitation Services, Montgomery; Shelton W. McLelland, Regional Representative, Office of Vocational Rehabilitation, Department of Health, Education and Welfare, Atlanta; O. E. Reece, State Supervisor, Vocational Rehabilitation Services, Nashville; L. J. Waller, Area Supervisor, Vocational Rehabilitation Services, Birmingham; Charles T. Higgins, State Sales Director, Alabama Society for Crippled Children and Adults, Montgomery; and Charles E. Adams, Coordinator of Conference Activities, University of Alabama.

Fulbright Scholar

Dr. W. W. Kaempfer, Montgomery Center director, has announced that Charles Elmer Estes, a Center student, has received a Fulbright Scholarship for study at the University of Nottingham, England, during 1959-60.

THE RIGHT-OF-WAY PARLEY EACH YEAR is a major conference at the University of Alabama. This year it was attended by 260 persons, all vitally concerned with the national inter-state highway building program. Principals at the parley shown above are: left to right, Earl M. Duffey, Montgomery, appraiser, U. S. Bureau of Public Roads; Frank C. Balfour, Sacramento, a founder of the national ROW Association; UA Engineering College Dean James R. Cudworth and R. D. Jordan, Montgomery, Interstate Highway Engineer, State Highway Department.

Safety In Industry Aim of New Course

"Industrial Safety," a community-service type of extension course with immediate benefits possible, will be offered in the Tuscaloosa Evening program again this year, announced Jack Steen, Coordinator for Adult Education.

The University worked with several area industries in planning this course, which consists of lectures and special demonstrations by experts in the field of safety.

High praise was accorded a special course in Industrial Safety taught at Central Foundry Company in Tuscaloosa during the spring of 1959.

The Company reported an improved employee safety record as the course neared its close.

Steen also announced that enrollment in the Tuscaloosa Evening program for the year just past increased 86% over the previous year. Based on response to inquiries sent out, an even larger enrollment is expected in 1959-60.

Religious Drama Course Offered

The Birmingham Center will conduct two workshops in religious drama during the 1959-60 school year, using its theater staff and members of Town and Gown Civic Theater.

The workshops are being conducted in response to a demand for better understanding and more effective use of religious drama. There will be ten workshops of three-hour duration.

Instructors are Dr. Harold Ehrensperger, head of the Department of Religious Drama, Boston University; James Hatcher, Assistant Professor of Speech, Birmingham Center; Betty Caldwell Foley, lecturer in Theater Arts, Birmingham Center; and Mrs. William E. Brobston, instructor in Creative Dramatics, Birmingham Center.

FALL ETV SCHEDULE
(Continued from page 1)

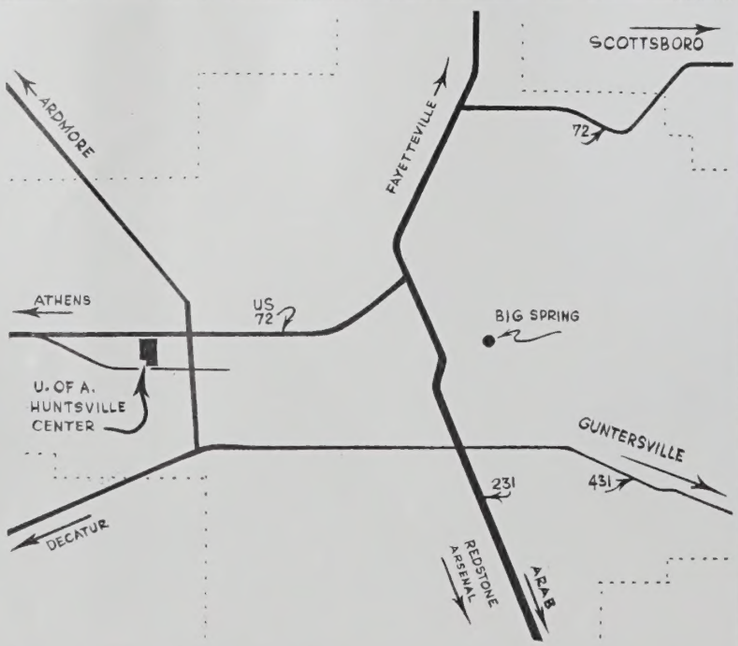
sical languages, is teaching the Greek and Roman Mythology series.

For the first time, Russian is being taught as an in-school full series. Anthony F. Hull, visiting assistant professor in English and linguistics, is teacher of this course. High school chemistry is instructed by Dr. Robert D. Brown, dean of the School of Chemistry, and Dr. Hubert E. Mate, professor of romance languages, is teaching high school Spanish.

The in-school enrichment courses are English Literature, Mrs. Muriel G. Thomas; General Music, David Cohen; Mechanical Drawing, Professor Joseph A. Bennett; Music Time, Dr. Edward H. Cleino; American History, Dr. John S. Pancake; Upper Elementary Spanish, Dr. Hubert Mate and Dr. Herbert Van Scoy.

A number of cultural and enrichment programs aimed primarily at adults are planned also. These include: Pianist at Work, Roy McAllister; Capstone Concerts (weekly music concerts); Capstone Review (University of Alabama news); Background, Dr. John Pancake, Dr. John Ramsey, Dr. Paul Paustian; Conservation, State Conservation Department in cooperation with the UA biology department;

Family Challenge, Home Economics School faculty supervised by Mrs. Doris Burton; Alabama Home Facts, Dr. E. Neige Todhunter; Alabama Business, James R. Brown and Dr. Paul Paustian; Tall Tales, Yvonne Dell; Living Things, Dr. Walter R. Herndon, Jr., and Dr. E. G. Patton; Vocabulary, Mrs. Muriel G. Thomas; General Orientation Counseling and Guidance, by the faculty of the College of Education.



MAP OF HUNTSVILLE AREA showing site of new Center, located on Highway 72 west of the City.

Three Named To Broadcasting Staff

Director Graydon Ausmus of the University Broadcasting Services announces the appointment of three new staff members.

George W. Moorman has assumed his duties as Chief of Production and assistant professor of radio and television. Prior to his appointment here, he was at West Georgia College where he served as theatre director and instructor of speech and drama.

He holds the Bachelor and Master of Fine Arts degrees from the University of Oklahoma, and has done research in educational television at seven major universities on a Ford Foundation grant. In 1949 he was chosen by the National Theatre Conference one of the ten most outstanding graduates in drama in the nation. His theatrical background includes professional radio, film and television performances.

Edmund Cenedella, a graduate of Florida State University with a Bachelor of Arts degree, will become Producer-Director for the Fund for the Advancement of Education Project.

Cenedella, who will do graduate study at the University of Alabama in the department of radio and television, has had a variety of professional radio announcing and directing experience, and has worked in television production. He served with the U.S. Air Force from 1954-58.

Thad B. McCarty, Jr., a former Birmingham resident, has been named Chief of Operations for the Broadcasting Services. McCarty comes to the UA from J. Walter Thompson advertising agency, New York City, where he was an account representative. In that capacity he handled accounts for some of the world's largest corporations. As Chief of Operations he will coordinate staff functions and supervise internal operations of the Broadcasting Services.

Smith, Cohen Attend War College Seminar

Two Montgomery Center instructors were chosen among 200 reserve officers and civilian observers from all over the country to attend the first National Strategy Seminar held in July at the National War College in Washington, D. C.

Dr. Victor H. Cohen, history and political science instructor, and Starr Smith, journalism and creative writing teacher, took part in the 13-day seminar.

Authorized by the Joint Chiefs of Staff, the seminar was convened to provide the special group with a better understanding of the world conflict and an understanding of ideas and programs necessary for the creation of a resolute, informed U.S. climate of opinion.

In-School TV Viewing Promises Big Increase

More than 34,000 Alabama students are viewing television in-school lessons from the University's Broadcasting Services.

A preliminary survey made prior to the opening of the school year indicated plans for 34,374 students to watch the 14 in-school series offered by the UA.

This number does not include students who receive in-school TV lessons from the Birmingham and Auburn studios.

Graydon Ausmus, Director of University Broadcasting Services, expressed the belief that "when school opens there may be twice the 34,000 figure watching University produced or originated pro-

grams." Last year all three educational television stations served a total in excess of 60,000 students, and it is expected that the total this year will more than double that number.

The in-school full course series includes Russian, chemistry and Spanish. According to the preliminary survey, two hundred and fifty-five students from ten schools are viewing Russian; 1,683 students from 57 schools are watching chemistry; and 1,269 students from 41 schools are viewing Spanish.

The in-school enrichment series includes English Literature with 1,990 pupils from 39 schools; General Music, 1,544, 27; Mechanical Drawing, 202, 7; Music Time, 5,933, 72; and American History, 1,968, 43.

Of the 476 schools contacted before the opening of school, 182 reported that they would view some of the in-school series. As of September 4, there were 303 television sets in the 182 schools.

Hike In Center Enrollment Shown

University of Alabama centers accounted for 5,058 of the total of 12,399 students enrolled in the University during the spring semester, reported William F. Adams, dean of admissions.

The total figure includes, besides the center enrollment, 6,593 on the main campus in Tuscaloosa, and 748 at the Birmingham Medical Center.

All figures edge those of a year ago, said Adams, when the total was 12,151.

The biggest hike came in the Extension Division's report for the centers, which last year gave a 4,860 total.

The UA center enrollment for the spring semester was: Huntsville, 1,705; Birmingham, 1,624; Montgomery, 542; Mobile, 485; Tuscaloosa Evening Program, 237; Gadsden, 229; Dothan, 113; Selma, 99; Sylacauga, 24.

University Again Aids High Schools

Through the Extension Division the UA will again this year be offering a full slate of services and activities to high school students over the state.

Dr. Hugh Taylor, director of Counseling and Advisory Services, pointed out that the four categories of services offered by his office will put UA personnel in touch with some 14,000 Alabama high schoolers next year.

The secondary school services include Counseling and Advisory Service; the state-wide journalism competitions; music festivals and concerts; and high school forensic activities.

One of the most practical services arranged by the Extension Division is its series of guidance clinics in which high school students are counseled concerning their future education or training, and possible careers. Not only University representatives, but personnel from other state institutions of higher learning as well as businessmen, professional men, and trade school educators meet with students to advise and counsel them.

Journalism Clinic

The 23rd annual Journalism Clinic and High School Press Association meeting will be held on the main campus December 4-5, 1959. As in the past it will include separate clinics for students and directors interested in yearbooks, newspapers and photography.

Three music competitions for high school students will be held at the University during 1959-60. For the first time, talented high school musicians have been invited to audition on the campus for the opportunity of performing as soloists with the University Symphony during a spring concert. This will be an annual project sponsored by the Department of Music.

The All-State Band, Choral and Orchestra Festival, scheduled for March 14-16, will bring regionally-selected students to the Capstone to vie for positions in the All-State Orchestra, one of three All-State Bands, and the All-State Chorus.

The following month the Extension Division will assist the Alabama Music Educators Association in bringing the annual Band, Choral and Piano Competition Festival to the campus.

Music Competitions

One of the most popular services of the Extension Division is the sponsoring of forensic competitions at the Centers as well as on the main campus.

This year discussion clinics will be held at all six centers during the month of December. In February non-decision debates will be held at six centers.

The Alabama High School Forensic Tournament, featuring several varieties of forensic skills, will be held at the University March 24-26.

(Continued on page 4)

EXTENSION DIVISION AIDS
(Continued from page 3)

Dr. Taylor pointed out that the Extension Division offers, as a ser-four children of his own, told the 30th annual PTA Summer Institute.

A new feature of the debate competition this year will be the dividing of school teams into two groups. The University has added a tuition scholarship to be awarded to debate winners, bringing to five the total of scholarships awarded in this event annually.

Understand Children, Advises PTA Speaker

Today's parents show more understanding about training parakeets and dogs than they do their children, a child consultant with four children of his own, told the 30th annual PTA Institute.

Dr. Edward L. Fleming, a consultant in child growth and development at the Bureau of Maternal and Child Health, in Jacksonville, Florida, said that ninety per cent of our children fall in the "normal" category. Evenso, they will go into cyclical behavior which may panic the average parent.

If a child develops an extreme negative behavior or a persistent personality trait, Dr. Flemming said, the parent should talk it over with the family physician or classroom teacher to find "sources of referral."

Complete directions, repeated some 30 times, are required for the child in the learning process, Dr. Fleming added.

Especially do they become insecure when "blessed out" for situations they have never understood to begin with, such as "Go take a bath," meaning, said Dr. Fleming, some 15 individual steps from hanging one's clothes up to wiping the ring out from the tub and placing towels on the rack.

Mobile To Offer Two Courses For Teachers

Two new courses for teachers will be offered this semester at the UA Mobile Center in the Old Customs House.

Teaching the courses will be Dr. Ralph M. Roberts, associate professor of education at the UA, who will offer a course for teachers in counseling and guidance, and Miss Virginia James, professor of education at the Capstone, who will be offering the Teaching Language Arts course. Both classes will meet on Saturday from 10 a.m. to 1 p.m.

The counseling and guidance course will deal with the functions of the teacher, technique with students in regard to educational, emotional and social problems, plus guided study of current problems of individual students.

In Teaching Language Arts, Miss James will discuss theory and practice involved in the teaching of composition, spelling, writing and reading.

Small Business Owners Offered Special Course

A special course designed to help Alabama small business owners and managers improve their management skills will be offered by the Birmingham Center this fall.

The course, aimed at providing for the small businessman management aids and instruction of the kind that is available to management personnel in large corporations, will be sponsored jointly by the UA School of Commerce and Business Administration and the Small Business Administration, an agency of the federal government.

It will be open to all proprietors and managers of small business enterprises, and will cover a wide range of management courses and subjects.

U. S. Senator John Sparkman, from Alabama, Senate Small Business Committee Chairman and sponsor of the provision which enabled the SBA to sponsor the project, said, "Often the proprietor of a small firm has special skills in one or two management functions but may need more over-all management training.

"A worthwhile administrative management course is now available to Alabama's small business proprietors and managers; I know that many businessmen will want to take full advantage of this opportunity."

Other agencies taking part in the development of this course are: the Birmingham Chamber of Commerce; Associated Industries of Alabama, the Alabama Association of Credit Executives; the Birmingham Business and Professional Women's Club; and the Birmingham Committee of 100.

H. E. Extension Head A Real Globe-Trotter

Miss Elizabeth Carmichael, director of Home Economics Extension at the Capstone, likes people —and strange places and beautiful things. And she has made her tastes pay off.

Busy traveling throughout the state during the winter, she is a tour conductor for a national travel bureau during the summer months.

Her part-time job, which she describes as "mostly personnel work and a great deal of fun," has led her to nearly every point on the globe. She has conducted eight tours for the travel bureau and has been around the world twice. Her latest jaunt was a month-long tour of South America as head of a large group of U.S. sight-seers.

Miss Carmichael believes foreign travel would benefit every American.

"You come back with a totally changed viewpoint," she said. "You realize that the United States is just one spoke—though a big one—in the international wheel."

MONTGOMERY CENTER INSTRUCTOR Paul Poe instituted an innovation in the teaching of Physical Geography by taking his class to the Maxwell Air Force Base Weather Station to observe modern techniques of forecasting the world's weather.

Students were impressed when they viewed a thunderstorm 100 miles away on the Station's radar scope. Through radar the Station personnel were able to determine location and altitude of the storm.

Investments Class Drawing Interest In Three Centers

A course in "Investments" is drawing interest in at least three centers in Alabama.

Designed to give the layman a basic understanding of this specialized branch of finance, the course is now being taught in the Tuscaloosa Evening Class program, with 28 students enrolled, and at the Selma branch, where 52 persons have signed up.

Lynwood Johnson, an employee of one of the oldest and most renowned investment brokerage firms in the nation, is teaching the Selma course. He taught two sections of "Investments" at the Montgomery Center to a total of 90 persons.

Teacher of the Tuscaloosa class is Frank Vines, who has done work in underwriting of municipal and corporate bonds.

UNIVERSITY OF ALABAMA
Extension News Bulletin
Issued monthly by the Extension Division of the University of Alabama
EDWARD O. BROWN, Editor
KATHERINE BAIRD, Assoc. Editor

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Under Act of August 24, 1912

HOW THE UNIVERSITY EXTENDS ITS

SERVICES

REPORT OF ACTIVITIES OF 1958-1959

UNIVERSITY OF ALABAMA EXTENSION DIVISION

UNIVERSITY OF ALABAMA
UNIVERSITY, ALABAMA
OFFICE OF THE PRESIDENT

TO THE PEOPLE OF ALABAMA

It is well known that during the past century the people of Alabama have developed at the University a great reservoir of educational resources which enable young people to acquire a well rounded general education, to secure professional training in engineering, law, medicine, business administration, Education, and home economics, and to do advanced study in mathematics, the natural sciences, and the social sciences.

It is not as generally understood that during the past 40 years the people of Alabama and the University have developed facilities which will permit every citizen of this State to use these educational resources continuously as long as he lives, whether or not he becomes a resident student at the University.

I believe the following report can give every Alabamian new insights into the ways in which the University contributes to the growth and development of Alabama and can also help him identify specific educational opportunities related to his own interests.

Frank A. Rose

Frank A. Rose, President
University of Alabama

UNIVERSITY OF ALABAMA
UNIVERSITY, ALABAMA
EXTENSION DIVISION

President Frank A. Rose
University of Alabama
University, Alabama

Dear President Rose:

Attached you will find a brief review and summary of extension services carried on by the University of Alabama during the period 1958-59.

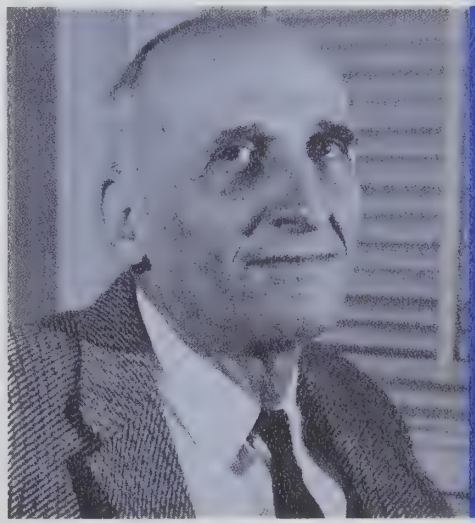
During the last half century these services have developed in many ways. Alabamians can now use the University's resources (1) by mail, (2) through radio and television, (3) in conference and short course activities, and (4) by attending classes and lectures in the late afternoons and evenings at Centers established in most of the major population concentrations of the State. Some of the University's instructional departments also collaborate with secondary school authorities in carrying on regular educational services to assist Alabama high school students in many areas of their study programs.

On the following pages is a brief account of these arrangements and a description of services now available.

Yours sincerely,

J. R. Morton

J. R. Morton, Dean



HOW THE UNIVERSITY EXTENDS ITS SERVICES

UNIVERSITY OF ALABAMA
EXTENSION NEWS BULLETIN

Issued monthly by the Extension Division of the University of Alabama

November, 1958 University, Alabama Vol. [illegible] No. 5

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THE UNIVERSITY CONCENTRATES MANY SERVICES

AT SIX CENTERS

The University of Alabama annually serves more than 10,000 students at its Centers, located in Birmingham, Mobile, Dothan, Gadsden, Huntsville and Montgomery.

The backbone of any University is the knowledge, leadership, and teaching ability of its faculty. Instruction at the Centers is supervised by instructional department heads at the University and teachers at the Centers perform their duties as approved members of departmental faculties of the University.

Students at the Centers also have access to many other University resources—reference books, films, current periodicals, reproductions of important documents, research in progress, special lecturers, and other such materials and activities.

University Centers provide unique opportunities to develop educational services closely related to the interests and resources of a particular community or region. For example, the Huntsville Center offers many courses in physics, mathematics, and the engineering sciences. Educational leadership for these activities can be drawn not only from the University but also from the great stockpile of scientific knowledge and experience connected with the research and experimentation under way at Redstone Arsenal.

The Mobile Center serves the Brookley Air Force Base and the rapidly developing business and industrial community around Mobile Bay. In Birmingham, the oldest of the University Centers, established 1936, performs essential services for the University Medical and Dental Colleges and the University Hospital, as well as providing many needed educational opportunities for the large urban and industrial community surrounding it. The Montgomery Center provides educational services needed by the Maxwell Air Force Base-Air University, certain departments of the State government, and a variety of other groups in the city of Montgomery. The Gadsden Center program is organized around the industrial interests of that community and the Dothan Center serves Fort Rucker and the area in a radius of about 35 miles around Dothan.

Special evening class activities are also regularly maintained in Selma and Tuscaloosa, periodically in Decatur, Jasper, and Sylacauga, and occasionally at other locations in the State.

Among the useful services offered by University Centers are numerous short courses in such fields as investments, estimation of construction costs, music, drama, personnel management, specialized courses in English for professional and technical workers, and many others.

Courses in medical terminology, especially designed for medical assistants, have been jointly sponsored for a number of years by the Alabama Medical Society, the Association

of Medical Assistants of Alabama, and the University.

Of the approximately 825 courses taught at the Centers during 1958-59, 85% were in the fields of arts and sciences. The largest enrollment continued to be in engineering with 31% of all Center students. The average number of students in each of the major divisions of instruction at the Centers was engineering, 1318; arts and sciences, 1177; commerce, 886; nursing, 215; and Education 133.

Highlights of the various Centers:

BIRMINGHAM—Opened 24 years ago in a frame house with 116 students—current enrollment 3,140, housed in a modern four-story building . . . provides educational services for medical, dental, and nursing trainee groups, sponsors the Clark Memorial Theater, popular amateur theatrical group, carries on numerous educational services concerned with interests of the business community.

DOTHAN—Over 200 high school students from Wiregrass area took part in first annual journalism workshop, jointly sponsored by the Dothan Eagle, the Alabama Press Association and the University—Family Life Conferences held in Dothan and Ozark with sessions for both parents and young people . . . clinics and conferences held for business and professional groups.

GADSDEN—Continuation of services to business community, courses and clinics concerned with estimation of construction costs . . . professional training for insurance underwriters . . . special courses in public speaking, and real estate appraising for brokers, salesmen, bankers, and home owners and buyers.

HUNTSVILLE—Established in 1950, current enrollment 1,250, contract recently signed for a new $750,000 building—specialized cooperative graduate study program with Redstone Arsenal in mathematics, the natural sciences, and engineering.

MOBILE—Services to Brookley Air Force Base, Mobile hospitals and the business community remain stable—continued offering of advanced courses in Education . . . nine full-time faculty members.

MONTGOMERY—University joined by the City of Montgomery and Montgomery County in purchase of building now occupied by the Center—library and laboratory facilities improved . . . Dr. W. W. Kaempfer, Assistant Professor of Government at Southern Methodist University, appointed director . . . Revisions and extensions of services to the Maxwell Air Force Base and departments of the state government now being studied.

TUSCALOOSA—Evening class enrollments almost double—cooperative educational services with industrial groups being studied—courses in safety engineering continued.

EXTENSION DIVISION

REPORT ON INDIVIDUAL ENROLLMENTS JUNE 1958 TO JUNE 1959

University Center Enrollment, September 1958 to June 1959

	Total	Total 1957-58
1. BIRMINGHAM:		
Degree credit students	2699	2377
Non-degree credit students	441	568
	3140	2945
2. DOTHAN:		
Degree credit students	250	311
Non-degree credit students	94	122
	344	433
3. GADSDEN:		
Degree credit students	253	298
Non-degree credit students	115	123
	368	421
4. HUNTSVILLE:		
Degree credit students	1968	1510
Non-degree credit students	577	148
	2545	1658
5. MOBILE:		
Degree credit students	794	866
Non-degree credit students	179	335
	973	1201
6. MONTGOMERY:		
Degree credit students	694	1019
Non-degree credit students	397	422
	1091	1441
7. TUSCALOOSA:		
Degree credit students	192	103
Non-degree credit students	173	148
	365	251
Total Enrollment in University Centers		
Regular Session	8826	8350
Summer School	2315	2331
	11,141	10,681

THE UNIVERSITY EXTENDS ITS SERVICES BY USING

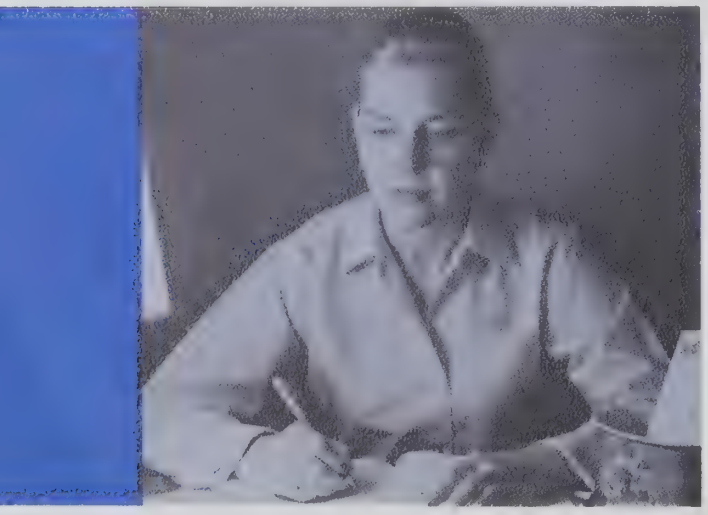
TO TEACH COURSES

College was as near as the mailbox last year for more than 3,000 students who enrolled in the University of Alabama and carried on their studies by correspondence.

These students received instruction from regular University faculty members by mail. Each student returned carefully planned and prepared lesson assignments to his teacher periodically and these were graded and returned with notations and suggestions.

Advantages of this type study are obvious. In this way students can proceed in their work at their own pace, on their own time schedule wherever they may be.

More than 200 different courses are available by correspondence under the direction of 69 members of the University faculty.



Teachers, members of the armed forces, and business employees are the principal groups served. About 15 per cent of those enrolled in correspondence courses are students in Alabama high schools—many completing college entrance requirements, others being unusually talented students wishing to enrich and enlarge their educational experience before college enrollment.

About 14% of the students enrolled by correspondence are members of the armed forces stationed both in the United States and abroad. The U. S. Armed Forces Institute, which subsidizes most of the cost of these studies, contracts with the University of Alabama and a number of other leading universities to provide such courses for service men and women.

In addition to regular courses in which degree credits can be earned, guided reading outlines and other such materials are provided for study club groups.

Sixty-six per cent of the college students enrolled in correspondence courses were in arts and sciences, 16% in commerce, 7% in Education, 3% in engineering and 8% in home economics. Thirty-two per cent of the high school students enrolled in math courses, while for college students, English and history courses were the most popular.

CORRESPONDENCE STUDY*

	1958-59	1957-58
College courses	2776	2595
High School courses	407	393
	3183	2988

*Correspondence Study from October 1957 through September 1958.

AUDIO VISUAL SERVICES

	1958-59 Number Served
Film Service to:	
Elementary Schools	55
High Schools	141
Industries	20
Study Clubs	41
Hospitals	7
Student organizations at campus	59
Churches	22
Colleges (U. of A. excluded)	27
	372

THE MAILS

FILM SERVICE TO UNIVERSITY OF ALABAMA

	1958-59 Total Bookings	Total 1957-58
Arts and Sciences	200	187
Campus Organizations	10	1
Chemistry	2	1
Commerce	34	13
Education	326	355
Verner School	82	64
Practice Teachers	289	234
Engineering	57	42
Extension Division, Campus Staff	238	186
Birmingham Center	42	23
Gadsden Center	16	16
Huntsville Center	30	55
Mobile Center	2	68
Montgomery Center	32	36
Selma	3	
Home Economics	93	95
Law School	2	
Medical College	2	3
Nursing	2	4
Radio and TV	5	
R.O.T.C.	5	19
Miscellaneous		21
	1472	1423

TO LEND BOOKS – FILMS

Between 1,000 and 1,500 Alabama citizens also used the facilities of the University Library by mail in 1958-59.

Books, magazines, and clippings from magazines and newspapers organized around particular subjects are available in this way.

Services in 1958-59 included materials on guidance to a teacher in a small rural school, detailed information on uranium deposits to a retired geologist and information on modern church buildings to a church building committee.

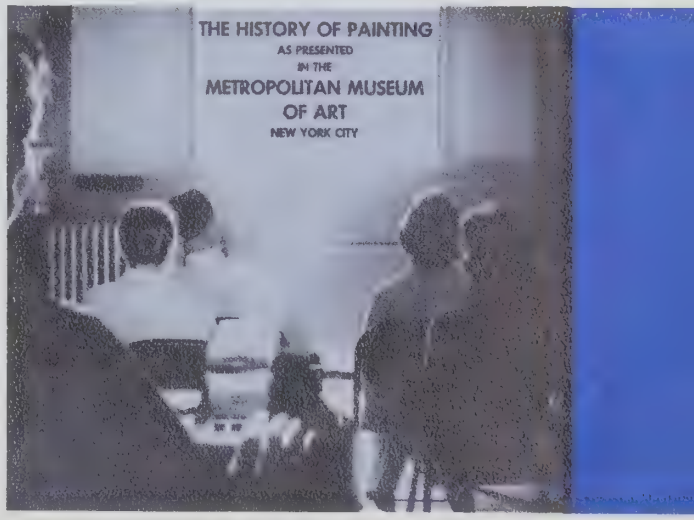
Library Extension services also included two other loan programs.

One provides high schools and little theater groups with reading copies of various suitable dramas. The University does not, however, exercise any authority with respect to copyright privileges. These arrangements must be made directly with the copyright owners.

In a special project sponsored jointly by the University and the Alabama Federation of Women's Clubs, art education materials are made available to the more than 500 women's clubs in the State.

The materials, which include mounted prints, color and black and white filmstrips, and some slides, are purchased through the Penny Art Fund of the AFWC. The University collaborates in the provision of advisory, custodial, maintenance, and distribution services. Use of these art materials during 1958-59—the second year of the project—was made by 65 women's clubs and more than doubled that of the previous year.

Also available for loan to schools, study clubs, church and other similar groups are approximately 2,200 educational films, having a wide range of use from teaching aids in schools to program material for clubs and churches. Last year 145 Alabama schools borrowed more than 1,000 films from the University.



CONFERENCES USING UNIVERSITY FACILITIES, 1958-59

CONFERENCE ACTIVITIES ON CAMPUS

	1958-59 Attendance	1957-58 Attendance
NEW CONFERENCES		
Piano Teachers Workshop	81	
TV Workshop	61	
State Personnel Professional Training Program	130	
Choral Reading Clinic	35	
P.T.A. Layman's Meeting	125	
Foreign Student Advisors Conference	18	
Alabama Association of Circuit Judges Seminar	34	
Synthesis of Mechanisms Conference	24	
Psychology Symposium	25	
Alabama Association of College English Teachers	79	
Y.M.C.A. Pre-Legislative Training Session	125	
Community Theatre Workshop	55	
High School French Clubs	182	
Post Office Executive Development Program	35	
Rehabilitation Conference	45	
American Society for Engineering Education	298	
High School Principals and Superintendents Conference on Extension Service Evaluation	25	
Alabama Historical Association	250	
Phi Beta Lambda (Future Business Leaders)	135	
Rehabilitation Supervisors Workshop	65	
CONTINUING CONFERENCES		
School Lunch Managers Conference	216	316
High School Music Camp	203	302
P.T.A. Institute	375	487
Boys' State	608	556
State Education Conference	300	50
Alabama Federation of Women's Clubs Workshop	207	153
Delta Kappa Gamma Workshop	126	95
Church Music Workshop	114	125
Alabama Bankers Study Conference	165	136
High School Cheerleaders Clinic	1440	1100
C.P.A. Review Course (Fall)	50	59
Alabama Broadcasters Association Study Conference	125	165
Alabama Probation and Parole Association Study Conference	106	95
Quality Control Conference	64	95
Credit Union Institute	132	118
High School Journalism Clinic	454	550
Federal Tax Clinic	222	226
Personnel Management Conference	147	
Highway Right-of-Way Conference	265	200
Transportation Conference	152	
Future Teachers of America State Meeting	600	65
Real Estate Salesmanship Conference	168	164
Small Business Clinic	137	65
Future Nurses Clubs State Convention	168	60
Public Relations Conference	72	93
Alabama Institute for Public Administration Training	66	63
Alabama Hospital and Nursing Homes Food Service Conference	57	59
Band, Choral and Orchestra Festival	1000	990
High School Forensic Tournament	140	160
C.P.A. Review Course (Spring)	36	35
Band, Choral and Piano Contests	5500	4800
University Cinema Society Film Series	443	
Southeastern Regional Composer's Forum	125	50
Principles and Techniques of Residential Appraising	30	60
Electronic Data Processing Conference	75	125
TOTAL ON CAMPUS	15,915	11,617*
OFF CAMPUS CONFERENCES		
Third Annual Institute for Secretaries (Mobile)	275	
Parentcraft Classes for Expectant Mothers and Fathers (Mobile)	35	
Prosthetics Workshop (Birmingham)	50	
Discussion Clinic (Mobile)	14	54
Discussion Clinic (Huntsville)	73	35
Discussion Clinic (Montgomery)	42	68
Discussion Clinic (Birmingham)	134	102
Non-Decision Debate (Huntsville)	42	32
Non-Decision Debate (Mobile)	5	64
Non-Decision Debate (Montgomery)	67	63
Non-Decision Debate (Birmingham)	111	115
Journalism Clinic (Dothan)	204	
Family Life Conferences (Bay Minette, Mobile, Dothan, Ozark, Opp, Muscle Shoals, Montgomery	9650	6433
Expectant Parents (Birmingham, Mobile, Decatur)	144	204
Parent-Teacher Retreat (Birmingham)	120	
P.T.A. Groups: 17 meetings	1925	
TOTAL OFF CAMPUS	12,891	7,170*
TOTAL CONFERENCES ON AND OFF CAMPUS	28,806	18,787*

*Total conference attendance for 1957-58. Some continuing conferences are not held annually.

THE UNIVERSITY ASSISTS CONFERENCE GROUPS

One of the most significant aspects of adult education is concerned with the interests of professional, business, and technical groups in maintaining and improving the professional standards and technical competence of their members.

The facilities of a university and the knowledge and experience of its faculty probably represent the most useful resources available in this country today for assistance in the attainment of these ends.

While all the extension services of a university are of continuing value for these purposes, conferences and short courses are particularly adaptable devices and offer great flexibility with respect to time and subject material.

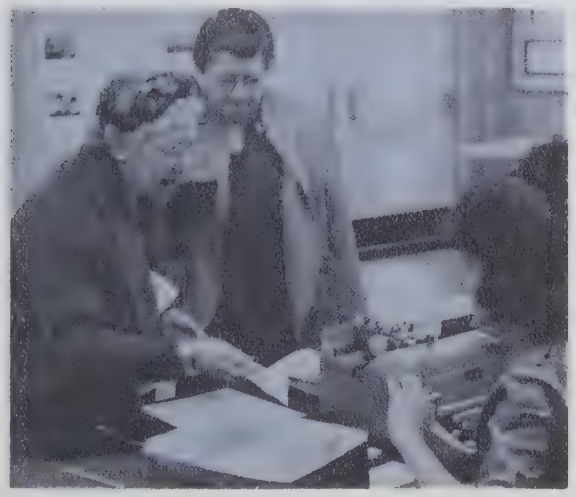
University faculty and staff members take part in such conferences, assist in obtaining outstanding speakers from other institutions and from the business and professional world, and help otherwise in the planning, promoting, housing, and financing of such activities. The Summer School and the College of Education were early leaders in developing and carrying on conference activities beginning with the organization of the Summer School in 1904. The Summer School still maintains the principal responsibility for many of the conferences held during the summer.

Participation in conference activities is by no means restricted to the above mentioned groups. In 1958-59 approximately 13,000 people took part in 55 conferences held on the University campus. About the same number participated in conferences sponsored by the University and held elsewhere in the State.

Conferences range in length from the five-week CPA Review, held each spring and fall, to one and two-day meetings of such groups as the Credit Union League, Probation and Parole Workers, Alabama Press Association, Alabama Broadcasters, Circuit Judges, Rehabilitation Supervisors, Hospital Dietitians, Employment Offices, Personnel Managers, Real Estate Appraisers and many others.

Annual conferences for high school students include forensic tournaments, band and choral festivals, journalism clinics, Future Teachers of America and Future Nurses Clubs.

Of the more than 15,000 persons who attended conferences at the University campus, 34% were concerned with the fields of the arts and sciences; 27% with business administration; 16% Education; 7% engineering; 8% home economics; 6% law, and 2% nursing. Approximately 10,000 high school students attended these conferences. In 10 of these conferences more than one major instructional division of the University took part.



THE UNIVERSITY EXTENDS ITS SERVICES BY

BROADCASTING

The State of Alabama now operates three television transmitters for educational purposes, Channel 2, Andalusia; Channel 7, Munford; and Channel 10, Birmingham. The programs broadcast from these transmitters originate at three program production centers, the Birmingham Educational TV Association, Auburn, and the University of Alabama.

University programs included college credit courses in such subjects as French, accounting, government, and mythology. Numerous courses, developed in cooperation with the State Department of Education, are provided to assist Alabama elementary and high schools in extending and broadening the educational opportunities they can provide their students.

Such courses from the University included Russian, chemistry, Spanish, English literature, general music, mechanical drawing, and physics.

For example, ETV services of this kind were used in 1958-59 in Gadsden High School by more than 600 students, 46 in Spanish, 75 in physics, 80 in chemistry, and more than 400 in biology.

In addition to the above mentioned instructional services the University also provides regular series of telecasts for adults wishing to broaden their understanding of questions of current interest or their insights into the intellectual and aesthetic achievements of human culture. These programs include series by the University's departments of music, history, modern languages, political science, business research, from the Alabama Department of Conservation, and numerous filmed series from other leading universities in the United States.

Since December 1949 the University has operated an educational radio station, WUOA-FM, which broadcasts from noon until 10 p.m. daily on 91.7 m.c.

Approximately 75 per cent of these broadcasts are music—most of it classical.

In 1958-59 more than 600 hours of classical music from WUOA-FM were also broadcast over Birmingham WAPI-FM, and beginning December 14, 1959, broadcasts originating with WUOA-FM will be transmitted six hours daily by Birmingham WBRC-FM. These expansions of service make it possible for more than a million additional Alabama people to get the benefits of educational broadcasts from the University.

Growth of the broadcasting services at the University of Alabama has been assisted substantially during the past decade by the Ford Foundation, the Fund for the Advancement of Education, and the Fund for Adult Education.

About 95% of the courses offered by television were in the arts and sciences, 4% in chemistry and 1% in commerce and business administration. During the fall semester, 12 courses were offered; 13 in the spring; and 15 during the summer session.

BROADCASTING ACTIVITIES

	Total 1958-59	Total 1957-58
1. Television		
A. Live Telecasts Productions	936	1211
Faculty Participation	169	153
Student Participation	420	460
Other (visitors, etc.)	416	197
B. Films Televised	1515	686
Films Produced	45	
Photographs Produced	445	
C. Kinescope Recordings Made	11	108
2. Radio		
A. Tape Recordings Produced		
Major Series	2	1
Special Events	37	30
B. Total Hours of Station Operation	3,650	3,650

THE UNIVERSITY SERVES ALABAMA SCHOOLS

The University of Alabama provided five major services to the high school students of the State during 1958-59. These services were concerned with educational and vocational counseling, journalism, music, forensics, and audio-visual aids. Arrangements for all these services are developed cooperatively by secondary school officials and appropriate representatives from the University.

Information concerning educational and vocational opportunities was made available to approximately 8,500 students in fifty-six Alabama high schools. Ninety-four faculty and staff members from the University participated in these guidance conferences. Similar leadership also came from faculties of other educational institutions and leaders in business, industry, and the professions.

Several hundred high school journalists and their faculty directors have met annually since 1936 on the University campus. High school students and their faculty directors can receive help in appraising and improving their school newspapers and yearbooks from members of the journalism faculty and other special consultants. Awards are made to those schools whose newspapers and yearbooks are adjudged best. In these competitions the schools are divided into three groups according to their enrollments. Individual awards are made to the students presenting the best posed, sports, and news photographs.

The Alabama High School Press Association and the Alabama Association of Journalism Directors hold their annual meetings on the University campus during the Journalism Clinic.

The University assists the high schools of the State in the strengthening of their music programs. Faculty members and advanced students from the Department of Music give special programs in a small number of high schools each year to stimulate further interest in music.

The All-State Band, Choral, and Orchestra Festival and the Alabama High School Band, Choral and Piano Competition Festival are cooperatively planned and administered by the University, the Alabama Music Educators Association, and high school officials. Both events are scheduled during the spring.

During the All-State Band, Choral, and Orchestra Festival high school students compete for membership in the All-State Orchestra, the All-State Chorus, and one of the three All-State Bands.

The Alabama High School Forensic League promotes forensic activities in the high schools of the State as means of improving the practices of good speech and developing desirable qualities of citizenship. The League and the University collaborate annually in providing a variety of experiences in discussion, debate, extemporaneous speaking, after-dinner speaking, and poetry reading. Approximately 350 students take part in these activities each year.

Discussion Clinics are held each fall at the six University Centers. At the clinics faculty members and advanced students of the Department of Speech advise and assist high school students and faculty directors in analyzing the debate proposition and in applying the fundamental principles of debate. Non-decision debate meets are held at each University during the late winter. At these meets debate teams meet each other before critic judges who assist the debaters in improving their cases and debate techniques.

The forensic program culminates each year in a State-wide tournament held on the University campus. A one-year tuition scholarship is presented to each of the five students with the highest individual scores in debate.

Audio-visual aids, films, music recordings, and filmstrips, are made available to the high schools of the State by the University. These materials are of particular value in music appreciation, providing a variety of specialized information in the several subject fields, giving suggestions for growth and development of good personal qualities, and offering new insights into many educational and vocational opportunities.

SERVICES TO HIGH SCHOOLS

	Number School Systems	Number Persons Served
Discussion Clinics	4	263
String Quartet Concerts	5	4,770
Non-Decision Debates	4	225
Student Music Tours	1	900
Consultative Services	22	1519
Guidance Clinics	60	8494
	96	16,171

HIGH SCHOOL GUIDANCE CLINICS, 1958-59

Ashford	Headland
Ashland	Heflin
Atmore	Hokes Bluff
Bay Minette	Isabella
Boaz	Kennedy
Brundidge	Liberty
Buckhorn	Lineville
Butler	Luverne
Calera	Maplesville
Carrollton	Millport
Chatom	Moundville
Clanton	New Hope
Columbia	Ozark
Columbiana	Pine Hill
Cullman	Prattville
Decatur	Ranburne
Enterprise	Reform
Eutaw	Rehobeth
Fairhope	Robertsdale
Fairview	Sardis
Flomaton	Siluria
Florala	Sparkman
Foley	Straughn
Gorgas	Sweet Water
Greensboro	Thomasville
Guntersville	Verbena
Gurley	Vincent
Hazel Green	Wetumpka

UNIVERSITY OF ALABAMA
EXTENSION NEWS BULLETIN
"The University Campus Covers the State"
December, 1959 UNIVERSITY, ALABAMA Vol. 17, No. 6

Center Enrollment Shows Steady Gain

HUNTSVILLE CENTER PLANNERS . . . Working out final details of construction of the new Huntsville Center in December were (left to right): J. B. Perusini, contractor; Richard Dickson, architect; Dr. John R. Morton, Extension Division Dean; Dr. Frank A. Rose, University President.

65 Per Cent Increase Over Last Five Years

Enrollment in the University of Alabama Centers has increased 13.5 per cent over two years ago, and 65 per cent over five years ago.

Total Center enrollment for the fall semester of 1959-60 was 5,603, as announced by Admissions Dean William F. Adams.

Current University-wide enrollment, including the main campus, Centers, and UA medical branches is 13,691.

University Centers now enroll: Birmingham, 2,340 students; Huntsville, 1,352; Montgomery, 644; Mobile, 632; Gadsden, 249; Dothan, 208.

Total University of Alabama enrollment has increased 8 per cent since the fall, 1957-58 figures were tabulated, and is 36 per cent over total UA enrollment five years ago, in 1954-55.

Dr. John R. Morton, Extension Division Dean, commented on growth of the Centers: "It is a source of great satisfaction to the University that the growth of the University Centers has made possible the provision of educational services to thousands of Alabamians never before able to take advantage of the resources of the state university they support."

Enrollment at the Huntsville Center, which serves students from Redstone Arsenal and its affiliated agencies, has quadrupled since 337 students were registered there in 1954-55. In those five years Huntsville has shown a 312 per cent increase.

Enrollment at the UA Center in Birmingham has increased 62 per cent in the same five year period.

A breakdown of figures on Center enrollment shows that they had 3,393 students in 1954-55, and 4,934 in 1957-58.

Total University enrollment in 1954-55 was 10,064, and in 1957-58, 12,635.

Hatcher Given National Post

James F. Hatcher, who has just been named producer and director of the Miss America Pageant, has been producing spectaculars for years in Birmingham in his capacity of assistant professor of speech at the University of Alabama Center and Director of Town and Gown Civic Theater.

It was Hatcher, in fact, who first organized the Town and Gown Theater project with the support of the University through the facilities of its Extension division.

Since 1950, when he joined the Center staff, Hatcher has produced and directed more than 30 dramas and musicals under the aegis of Town and Gown.

His shows have been resoundingly successful when taken on the road as well as when playing to capacity audiences in Birmingham.

In addition, Hatcher and his Town and Gown group have cooperated with the Women's Civic Club in sponsoring a Children's Theatre group, and have worked with Junior Programs on at least two major productions in the Junior Program schedule each year.

Hatcher's fame spread with his superb staging of such annual events as the Miss Alabama Pageant, Music Under the Stars, Symphony of Fashions, Birmingham Civic Opera productions, and the Jefferson County Maid of Cotton Coronations.

The Miss Alabama Pageant, which he has been producing in association with Miss Lily May Caldwell for some time, is recognized by national officials as one of the finest state pageants in the Miss America competition.

A native of Enterprise, Hatcher received his A.B. degree at Birmingham-Southern College and an M.A. degree in 1950 from the University of Alabama. While in residence at the Capstone he held a graduate assistantship, serving as a teacher in the drama department and business and publicity manager for the University Theatre.

Montgomery Center Student Is Honored

Maj. James D. Hepler, Montgomery, Air University staff officer and a former student at the UA Montgomery Center, has been selected by Air University's Institute of Technology to attend the University of Alabama for a one-year course in advanced management.

The course will enable him to graduate with a B.S. degree in business administration, with a major in industrial management.

He has attended the University of Pittsburgh, the University of California, and the Montgomery Center.

Local Radio Not Always Fulfilling Its Potential, Charges Network V-P

A top-ranking radio executive from New York told the Alabama Broadcasters Association, meeting at the UA in October, that radio has been forced to change its public image from a social institution to a social service.

George Graham, vice president of NBC Radio, reported that the advent of television, along with

George Graham

increased family mobility and leisure, had turned radio from a source of show business entertainment into a companion and personal listener service.

In the change-over, he reported, many local stations are not fulfilling their potential in this new, highly personal field.

A policy of the "top 20 records, capsule news on the hour, headlines on the half hour, screaming announcers in between and audience give-aways all day long" can only assure the stifling of creativity and the economic collapse of radio, Graham said.

He suggested local stations exploit the four artistic forms which a mobile public will accept—music, news, sports and radio dialogue—as creatively, imaginatively, and articulately as as possible.

Moore, Venable Get National, State Posts

Dr. A. B. Moore, Dean Emeritus of the UA Graduate School, has been named to two important positions on commissions commemorating the Centennial Observance of the War Between the States.

Dr. Moore, one of the South's leading historians, was selected chairman of the statewide commission planning the commemoration, and is also a member of the advisory committee of the national commission.

Another University staffer, Dr Austin L. Venable, who is Montgomery Center associate professor of history, was appointed by Gov. John Patterson to serve on the state commission. Dr. Moore was named chairman by the commission members themselves.

The commission, authorized by an act of the legislature, is composed of twenty-three members.

Dr. Venable was chosen to represent the second congressional district on the commission. Other members of the commission include representatives from the other eight congressional districts, five members at large, and nine ex officio members including Governor Patterson.

The Civil War Centennial is to be observed nationally during the four year period, 1961-1965.

GROUND WAS BROKEN in late December marking the start of the new Huntsville Center. Present for ceremonies were (left to right): Philip Mason, Huntsville Center director; Roy Stone and Lawrence Cobb, both of the Madison County Commission; UA President Dr. Frank Rose; John Caddell, UA Trustee; Vance Thornton, president, Huntsville City Council; and Hill Ferguson, member-emeritus of the Board of Trustees.

Montgomerians Elected

Miss Margaret Sturgis, Montgomery Center instructor in economics, was elected to a two-year term as president of the Alabama Joint Legislative Council at a meeting of the organization in Mobile November 21. She formerly held the office of auditor of the Council.

Mrs. Leo B. Roberts, Montgomery Center librarian, was elected corresponding secretary at the same meeting.

At the meeting the Council, composed of representatives of women's civic, professional and religious organizations, adopted a resolution offering cooperation to the state Federation of Women's Clubs in combatting the mailing of obscene literature.

Survey Shows ETV Used In 523 Schools

A research team surveying educational television's effect on Alabama schools has found that 523 state schools are now utilizing telecourses broadcast over the Alabama Educational Television Network. Over 151,000 students are viewing the courses, the survey showed.

Associated Consultants in Education evaluates the project as an effective teaching aid. The report adds that in most cases the student whose curriculum is enriched by ETV makes better grades than do students taught by conventional methods.

The Alabama program, now in its third year, reaches the largest number of students of any educational TV system, according to the report. One telecourse reaches more than 20,000 pupils simultaneously.

Birmingham Center Adds Two Engineers To Full-Time Staff

Two practicing engineers have been added to the UA Birmingham Center as instructors in the department of engineering.

Dr. Joseph H. Appleton and William C. Reynolds assumed their full-time duties at the Center in September.

Dr. Appleton, a native of Collinsville, holds the Ph.D. degree in Civil Engineering and an M.S. degree from the University of Illinois, and a B.S. from Alabama Polytechnic Institute.

Reynolds, whose home is Birmingham, holds an M.S. degree in Industrial Management from Georgia Tech and a B.E. from Tulane University.

Dr. Appleton has been a structural engineer with private firms and with the U.S. Bureau of Public Roads in Washington, D. C. He was instructor in civil engineering at North Carolina State College.

He has had several articles published in technical journals and is a member of Tau Beta Pi, Sigma Xi, Phi Kappa Phi, Chi Epsilon, and Omicron Delta Kappa.

He is married and the father of three children.

Reynolds was design and consulting engineer for two Birmingham firms and sales engineer for a company selling industrial equipment.

He is a member of Kappa De ta Phi, honorary leadership society, and was named to Who's Who in American Colleges and Universities. He is married and the father of four children.

Poe, Vent Write Labor–Education Magazine Article

Paul A. Poe and Herbert Vent, Montgomery Center faculty members, collaborated on an article, "Organized Labor and the School Curriculum," which was published in the July, 1959, issue of "Educational Administration and Supervision."

In their article, Poe and Vent point out that in the past the forces of labor and education have generally shown a mutual suspicion of motives. The authors contend that it is becoming increasingly important that educators and labor groups work together to promote educational progress as a necessary adjunct to a dynamic American society.

Poe and Vent state that labor-endorsed public school curricula include a social sciences core, with experiences in the natural sciences, and a broadly conceived general educational program which encompasses vocational aspects of life.

Morton Announces New Appointments

Two new appointments to the University Extension Division are announced by Dr. John R. Morton, Extension Dean.

Charles H. Slaughter, Springhill, has been named instructor in mathematics at the Mobile Center.

Assuming the duties of producer-director with University Broadcasting Services is Barry J. Walraven, formerly of Oklahoma City, Okla.

Those who dream by day are cognizant of many things which escape those who dream only by night. —Edgar Allen Poe

TAX CLINIC CONFEREES . . . Among the 240 persons attending the annual Federal Tax Clinic at the Capstone November 20-21 was keynoter Harry Hayden, center, Alabama Commissioner of Revenue and former UA Law School professor. Shown at left is James J. Carter, Montgomery attorney, and at right, E. A. Edwin, Chief of Income Tax Division for the state.

"Music Time" Proves Popular ETV Show

Over eleven thousand elementary school students watch the University of Alabama television series "Music Time" each Thursday afternoon on the Alabama IQ Network.

According to a recent tabulations, the musical series, now in its fifth year of continuous programming, is viewed by 11,700 students in 123 Alabama elementary schools.

Instructed by Dr. Edward H. Cleino, associate professor and chairman of the UA music education department, this in-school enrichment series made its first appearance on ETV in October, 1955. It is the first continuous in-school series to originate from the U of A TV studios.

"Music Time" is also the first University series to be kinescoped (television film processing). Since its beginning kinescoped programs of this series have been viewed by educational television stations and schools interested in planning music lessons for television all over the country.

Response from teachers and school children indicate that these programs are widely enjoyed. The secret of its success is based on the principle of active participation of the viewing audience rather than observation. On the set for each program, students from Verner Elementary School in Tuscaloosa act as Dr. Cleino's "class."

Dr. Cleino is an officer of the Music Educators National Conference and Music Teachers Association.

LOOKING TO A ROSY FUTURE in University of Alabama educational television are three new appointees to UA Broadcasting Services and Graydon Ausmus (right), UBS director. The new staff members, from left to right, are Edmund Cenedella, new Producer-Director; Thad B. McCarty, Jr., Chief of Operations for Broadcasting Services; and George W. Moorman, Chief of Production.

Rep. Elliott Talks On Rehabilitation In Alabama, Nation

A long forward look for the rehabilitation needs of Alabama's handicapped persons was taken by U.S. Congressman Carl Elliott in speaking at the University of Alabama to conferees of the Alabama Rehabilitation Association's study conference for workshop managers in November.

Last year in Alabama alone, under a federal law he co-authored, 2,400 Alabama men and women were rehabilitated. "For these men and women, the change from disability to ability meant employment; it also means self-respect and active association with the community in which they lived," he noted.

"There is a great deal of interest at the national level," he said, "in the research that the Alabama Society for Crippled Children and Adults is doing to develop employment opportunities for the homebound disabled, and in the work of the Alabama School of Trades in developing guides and procedures for use in establishing the severely disabled in small business enterprises.

"The Alabama Institute for the Deaf and Blind is now conducting a program of research in coordinating the services of the Vocational Agency and agricultural agencies in rehabilitating blind farmers," Elliott said.

"For all phases of rehabilitation the Federal share of financial aid has totaled $1,620,523 to Alabama. It has been money well spent," concluded Elliott.

TENTH BIRTHDAY

Alabama's first educational radio station, WUOA-FM, celebrated its tenth anniversary Dec. 5. The station is the official "Voice of the University of Alabama," broadcasting daily from 12 noon until 10 p.m. It can be received on FM radios within a radius of 60 miles of Tuscaloosa.

Tribute To Adult Education Leader

The following editorial is reprinted from the November 27 issue of the New York Herald Tribune.

Before every teacher rises a twofold challenge: to accumulate knowledge and to communicate it. That Dr. Lyman Bryson, during much of the long and varied career which ended with his death on November 24, was preoccupied by the problem of communication does not mean that he neglected the content of teaching for its form or method. To sound scholarship and a mellowing wisdom he added a profound conviction that modern technology had opened a great new field for the educator. He felt, too, that adult education should be just that in both senses: adult in quality for an adult audience.

Lyman Bryson

The United States has, in many respects, failed to exploit the capabilities of radio and TV as leavening, stimulating media of education beyond the schools. But what one man of wit and purpose could do, Dr. Bryson did. In his own programs and as director of education for the Columbia Broadcasting System, as well as through his academic associations with Teachers College and the American Association of Adult Education, Dr. Bryson exerted a wide influence. He made learning attractive, not by spoon-feeding or sugar-coating, but illuminating and warming it with clarity and humor. Lyman Bryson was a great teacher—to millions.

In 1938, CBS organized an Adult Education Board and invited Dr. Bryson to be chairman. One of the first results was a discussion forum called "People's Platform" with Dr. Bryson as moderator. "Invitation to Learning" began in May, 1940, and continued weekly with an audience at times estimated as near 1,000,000. He later became permanent moderator.

He was president of the American Association of Adult Education in 1944.

Among books authored by Dr. Bryson were "The New Prometheus," "Science and Freedom," "Communication and Ideas," "The Next American" and "The Drive Toward Reason."

Huntsville Seminar Enrolls Fifty, Presents Music History Experts

Two meetings of the Huntsville Center's Music Seminar have been held, with more than 50 persons enrolled in the six-program series.

In its first year at the Huntsville Center, the Seminar is designed to help people who may wish to advance their knowledge of music. Speakers are members of the University music department.

Latest guest speaker was Dr. Frederick Hyde who led the group in demonstrations and discussions of "Early Keyboard Music." Used in the demonstration were a 17th century harpsichord and a clavichord.

Speaker on October 6 was Dr. W. H. Rowand, UA music department head, who addressed the group on "The Awareness of Style in Music."

Coming speakers and their topics will include: David Cohen, January 12, "Contemporary Techniques in Composition;" Dr. J. F. Goosen, February 18, "Beethoven: a Guide to Modern Music;" Forest Robinson, March 15, "Up the River with Jazz;" Roland Johnson, April 12, "Opera in Demand."

Forensic Meets, Clinic Held At Six Centers

The Alabama High School Forensic Program got into full swing in December with six discussion meetings and forensic clinics over the state sponsored by the UA speech department and the University Extension Division.

Conducting the clinics were Dr. Hugh Taylor, director of the Extension Division's Counseling and Advisory Service; Miss Janelle Beauboeuf, instructor in the UA speech department; and the following speech students: Jeannine Rush, Meridian, Miss.; Bonnie Sue Rogers, Birmingham; Wendell Feltman, Birmingham; Kenneth Morgan, Milwaukee, Wis.

Hosts for the clinics were the six University Centers. On December 1 a discussion meeting was held at the Mobile Center; December 7, at the Dothan Center; December 8, at the Montgomery Center; December 11, at the Birmingham Center; December 15, Huntsville Center; December 16, Gadsden Center.

Miss Beauboeuf and her students analyzed the 1959-60 debate propositions for the young debaters present. The problem chosen for the national high school forensic series for this year has been announced as follows: What policy in labor-management relations will best serve the people of the United States? The problem comprehends three propositions for debate and three questions for discussion.

Following up the clinics will be non-decision debate meets for high schools during February at the University Centers.

All truth is valuable, and satirical criticism may be considered as useful when it rectifies error and improves judgment.

—Samuel Johnson on Pope

PRINCIPALS AT DOTHAN JOURNALISM CLINIC . . . Miss Jo Ann Flirt and Charles Scarritt (seated), both UA journalism faculty members, go over a fine point in editing school newspapers during the recent high school newspaper and yearbook clinic held at the Dothan Center. Students standing are unidentified.

Young Journalists Confer At Dothan

Over 140 budding journalists gathered at the UA Dothan Center November 6 for the second annual Southeast Alabama high school journalism clinic, sponsored by the University of Alabama and the Dothan Eagle.

Conducting workshops for students who edit and manage high school papers and yearbooks were Jo Ann Flirt, Charles Scarritt, and John Burton, all of the University's journalism faculty.

Dr. Hugh Taylor, representing the Extension Division of the University, and Charles O. Jones, director of the Dothan Center, welcomed delegates.

Participating in the clinic from the Dothan Eagle were Nat C. Faulk, editor; Mirl Crosby, business manager; Ed Driggers, managing editor; and Wallace Miller, advertising manager.

The students were luncheon guests of the Eagle.

FOOD CONFERENCE PLANNERS . . . Key figures in the annual Food Service Conference to be held at the U of A next March 8-10 get together to plan the parley. Seated left to right are: Ernest S. Williams, Wetumpka, Institute Committee Member of Alabama Hospital Association; Mrs. Charles E. Dunn, Jr., Selma; Mrs. Edith H. McCullock, Birmingham, president, Alabama State Nurses' Association; Dr. Bessie Davey, head of the UA department of foods and nutrition and conference coordinator. Standing are Miss Elizabeth Carmichael, president, Alabama Home Economics Association, and G. C. Long, Jr., Montgomery, executive director, Alabama Hospital Association.

CREDIT UNION GROWTH CITED BY SPARKMAN IN UA SPEECH

The remarkable growth of credit unions in this country was cited by U. S. Senator John Sparkman in a Nov. 6 speech at the University of Alabama, as a means of "bringing to millions, many of whom would otherwise not be reached, the teaching of advantages and values of systematic savings."

Addressing the fifth annual Credit Union Conference, convening at the UA, Sen. Sparkman pointed out, "In the U.S. there are more than 19,000 credit unions serving the credit needs of many millions of members. The savings of these people in the credit unions totaled in 1958 approximately four billion dollars."

The senator said the bill modifying the Federal Credit Union Act which he handled in committee and on the Senate floor would, "First, increase the maximum maturity of a loan from 3 to 5 years; second, increase the unsecured loan limit from $400 to $750."

"Third," he continued, "it would permit space in a Federal building to be used by State or Federal credit unions if 95 per cent of the members are or were at the time of joining Federal employees or members of such employees' families; fourth, it would authorize Federal credit unions to cash checks or to write checks and money orders and to charge reasonable fees for doing so. These services, however, would be limited to members."

Birmingham Instructors Get Research Grants

Three Birmingham Center instructors have been awarded grants-in-aid to do research in U.S. history and biology. The grants are provided by the University of Alabama Research Committee.

Joseph C. Kiger, associate professor of history at the Birmingham Center, will prepare a history of the learned societies in the United States. He will explore the development of these societies and their influence in international affairs, as well as their relationship to education and government.

Dr. Howard C. Elliott and Dr. Harold W. Harry, who are respectively associate professor of chemistry and assistant professor of biology at the Birmingham Center, are conducting biological and biochemical studies on one species of freshwater snail. The snail, Australorbis glabratus, is the major intermediate host of a parasitic worm with which 5% of the world's people are infested. It is hoped that research by Doctors Elliott and Harry will help in the search for a practical method of control of this important disease carrier.

EINSTEIN ON EDUCATION

"Through too early specialization, the college student may become a kind of useful machine, but not a harmoniously developed personality . . ."

—Albert Einstein

UNIVERSITY OF ALABAMA
Extension News Bulletin
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EDWARD O. BROWN, Editor
KATHERINE BAIRD, Assoc. Editor

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drama
loan
service

University
of
Alabama

DRAMA

plays for amateurs

Extension
News
Bulletin

DRAMA LOAN SERVICE

The Extension Division of the University of Alabama, with the cooperation of publishers, maintains a large loan collection of three-act and one-act plays and operettas. The Drama Loan Service is open to any play director or sponsor who wishes to read materials which may suit the needs of his group. Teachers, directors of community theatre productions, adults who work with young people in religious or character-building organizations, and members of women's clubs are invited to send their requests to:

DRAMA LOAN SERVICE
DRAWER 2987
UNIVERSITY, ALABAMA

Conditions of Use

1. The service is free, except for postage costs. Borrowers are asked to pay transportation both ways.
2. Plays may be borrowed for a two-week loan period.
3. Copies of any play chosen for production will be purchased from the publisher, and any royalty fees paid as required.
4. Requests should include the approximate number of characters, the type of play, and the maximum royalty which can be paid.
5. A collection of catalogs from play publishers is of great assistance to workers in amateur dramatics. Those who make their plays available through the Drama Loan Service include:

Art Craft Play Company
Cedar Rapids, Iowa

Baker's Plays
100 Summer Street
Boston 10, Mass.

Drama Guild Publishers
80 Boylston Street
Boston, Mass.

The Dramatic Publishing Co.
179 N. Michigan Ave.
Chicago 1, Illinois

Dramatist Play Service, Inc.
14 E. 38th Street
New York City 16, New York

The Heuer Publishing Co.
Cedar Rapids, Iowa

Longmans, Green & Co.
119 W. 40th Street
New York City 18, New York

The Northwestern Press
315 Fifth Avenue, South
Minneapolis, Minnesota

Row, Peterson & Company
Evanston,
Illinois

Samuel French
25 West 45th Street
New York City 36, New York

RECOMMENDED FOR HIGH SCHOOLS

THE ANGELL BRATS by Jay Tobias. 3-act comedy. 6 men 8 women. 1 interior. Drama Guild, $10 royalty.

ARE TEACHERS HUMAN? by James Reach. 3-act comedy. 5 men 8 women. 1 interior. French, $25 royalty.

THE BROOM AND THE GROOM by Kurtz Gordon. 3-act comedy. 4 men 6 women. 1 interior. French, $25 royalty.

THE EGG AND I by Anne Martens. 2-act comedy. 9 men 13 women. 1 interior. Dramatic, $35 royalty.

THE GHOSTS GO WEST by James Lee. 3-act mystery. 5 men 6 women. 1 interior, 1 exterior. Row, Peterson, apply for royalty.

THE GIRL OUT FRONT by Patricia Clapp. 3-act comedy. 7 men 7 women. 1 interior. Dramatists, $15 royalty.

GLAMOUR BOY by Esther Olson. 3-act comedy. 7 men 9 women. 1 interior. Row, Peterson, $25 maximum royalty.

THE GUEST COTTAGE by Wm. McCleery. 3-act farce. 3 men 6 women. 1 interior. French, $35 royalty.

HEAP-BIG-CAKE by W. Gordon Mauermann. 3-act comedy. 6 men 6 women. 1 interior. Art Craft, $10 royalty.

THE LAST LEAF by Ross Claiborne and Frances Banks. 3-act comedy. 4 men 5 women. 1 interior. French, $25 royalty.

THE LAST NOTCH by Sherman Sergel. 3-act drama. 16 men 11 women. 2 exteriors. Dramatic, $25 royalty.

LET 'EM EAT STEAK by Louise Conkling. 2-act comedy. 5 men 5 women. 1 interior. French, $25 royalty.

LOVE COMES IN MANY COLORS by Ruth and Nathan Hale. 3-act comedy. 5 men 6 women. 1 interior. French, $25 royalty.

MARY STUART by Jean Goldstone and John Reich. 6 scene drama. 12 men 3 women. 2 interiors, 1 exterior. Dramatists, apply for royalty.

MR. MERGENTHWIRKER'S LOBBLIES by Nelson Bond. 3-act comedy. 7 men 3 women. 2 interiors. French, $35 royalty.

MURDER TAKES THE STAGE by James Reach. 3-act mystery. 6 men 7 women. no scenery. French, $10 royalty.

MY SHIP UPON THE RIVER by Frank Wattron. 3-act comedy. 10 men 6 women. 1 interior. Row, Peterson, apply for royalty.

PETEY'S CHOICE by Fred Carmichael. 3-act comedy. 5 men 4 women. 1 interior. French, $25 royalty.

PIGTAILS by Wilbur Braun. 3-act comedy. 4 men 8 women. 1 interior. French, non-royalty.

RELUCTANT REUNION by Paul E. Sammon. 3-act comedy. 7 men 6 women. 1 interior. Row, Peterson, apply for royalty.

THE UNGUIDED MISS by Wm. Davidson. 3-act comedy. 4 men 8 women. 1 interior. Dramatic, $25 royalty.

WAIT FOR MARCY by Anne Martens. 3-act comedy. 14 men 9 women. 1 interior. Dramatic, $15 royalty.

WHIRLWIND COURTSHIP by Miles Dayton. 3-act comedy. 4 men 6 women. 1 interior. Baker, $10 royalty.

WHO WOULDN'T BE CRAZY by Katherine Kavanaugh. 3-act comedy. 8 men 8 women. no scenery. Dramatic, $25 royalty.

WONDERFUL SUMMER by Hilda Manning. 3-act comedy. 4 men 7 women. 1 interior. French, $10 royalty.

YOU THE JURY by James Reach. 3-act drama. 7 men 8 women. no scenery. French, $25 royalty.

RECOMMENDED FOR ADVANCED HIGH SCHOOL GROUPS AND JUNIOR COLLEGES

BEHIND THIS MASK by Clayton McCarthy. 5-act drama. 6 men 10 women. 1 interior. Row, Peterson, apply for royalty.

THE BIG FISHERMAN by Reginald Lawrence. 3-act Biblical drama. 12 men 11 women. no scenery. Dramatic, $25 royalty.

THE BOY WHO CHANGED THE WORLD by Patricia Malango. 3-act comedy. 8 men 6 women. 1 exterior. French, $25 royalty.

THE DIARY OF ANNE FRANK by Frances Goodrich and Albert Hackett. 2-act drama. 5 men 5 women. 1 interior. Dramatists, apply for royalty.

DILEMMA by Joan Brampton. 3-act drama. 3 men 3 women. 1 interior. Dramatists, apply for royalty.

THE GREATEST MAN ALIVE by Tony Webster. 3-act drama. 6 men 2 women. 1 interior. Dramatic, $25 royalty.

HOUSE ON THE CLIFF by George Batson. 3-act mystery-comedy. 2 men 4 women. 1 interior. French, $25 royalty.

HOWIE by Phoebe Ephron. 3-act comedy. 3 men 2 women. 2 interiors. French, $50 royalty.

THE LEGEND OF LIZZIE by Reginald Lawrence. 2-act drama. 15 men 8 women. no scenery. Dramatic, $35 royalty.

THE MAN ON A STICK by Leon and Harlan Ware. 3-act comedy. 5 men 4 women. 1 interior. French, $25 royalty.

MAYBE TUESDAY by Mel Tolkin and Lucille Kallen. 3-act comedy. 6 men 8 women. 1 interior. French, apply for royalty.

MONIQUE by Dorothy and Michael Blankfort. 2-act drama. 7 men 3 women. 1 interior. French, $50 royalty.

MURDER COMES IN THREES by Mortimer Sprague. 3-act mystery-comedy. 5 men 7 women. 1 interior. French, $10 royalty.

MURDER FOR THE BRIDE by James Reach. 3-act mystery. 11 women. 1 interior. Baker, $10 royalty.

NATURE'S WAY by Herman Wouk. 2-act comedy. 9 men 5 women. 1 interior. French, apply for royalty.

THE NIGHT IS MY ENEMY by Fred Carmichael. 3-act mystery. 5 men 5 women. 1 interior. French, $25 royalty.

REBEL WITHOUT A CAUSE by James Fuller. 3-act drama. 13 men 10 women. no scenery. Dramatic, $25 royalty.

THE RED HOUSE MYSTERY by Ruth Sergel. 3-act mystery. 7 men 8 women. 1 interior. Dramatic, $25 royalty.

SIX STITCHES FOR EGO by Vera and Ken Tarpley. 3-act comedy. 6 men 7 women. 1 interior. Row, Peterson, apply for royalty.

THE STAIRWAY by Margaret Hubbard. 3-act mystery-drama. 4 men 7 women 1 boy. 1 interior. Dramatic, $25 royalty.

THUNDER ON SYCAMORE STREET by Reginald Rose. 3-act drama. 8 men 10 women. 1 interior. Dramatic, $35 royalty.

THE WHITE SHEEP OF THE FAMILY by L. du Garde Peach and Ian Hay. 3-act comedy. 5 men 4 women. 1 interior. French, $35 royalty.

RECOMMENDED FOR COLLEGES AND LITTLE THEATRES

CLERAMBARD by Marcel Ayme. 4-act comedy. 7 men 7 women. 2 interiors, 1 exterior. French, $50 royalty.

THE DISENCHANTED by Budd Schulberg and Harvey Breit. 8 men 6 women. 3 interiors. French, $50 royalty.

FAIR GAME by Sam Locke. 3-act drama. 8 men 6 women. 5 interiors. Dramatists, apply for royalty.

FALLEN ANGELS by Noel Coward. 3-act comedy. 4 men 3 women. 1 interior. French, $50 royalty.

THE GAZEBO by Alec Coppel. 2-act comedy. 9 men 3 women. 1 interior. Dramatists, apply for royalty.

LOOK BACK IN ANGER by John Osborne. 3-act drama. 3 men 2 women. 1 interior. Dramatic, $50 royalty.

MISS LONELYHEARTS by Howard Teichmann. 2-act drama. 6 men 9 women. no scenery. Dramatists, apply for royalty.

PATTERNS by James Reach. 3-act drama. 7 men 6 women. 1 interior. French, $25 royalty.

THE ROPE DANCERS by Morton Wishengrad. 3-act drama. 4 men 5 women. 1 interior. French, $50 royalty.

WHO WAS THAT LADY I SAW YOU WITH? by Norman Krasna. 2-act comedy. 15 men 5 women. 6 interiors. Dramatists, apply for royalty.

WILL SUCCESS SPOIL ROCK HUNTER? by George Axelrod. 3-act comedy. 2 men 2 women. 2 interiors. French, apply for royalty.

UNIVERSITY OF ALABAMA

EXTENSION NEWS BULLETIN

Issued monthly by the
Extension Division of the University of Alabama

January, 1960 UNIVERSITY, ALABAMA Vol. 17, No. 7

Entered as second class matter at post office at University, Alabama, under act of August 24, 1912

UNIVERSITY OF ALABAMA

EXTENSION NEWS BULLETIN

Graduate Courses in Education

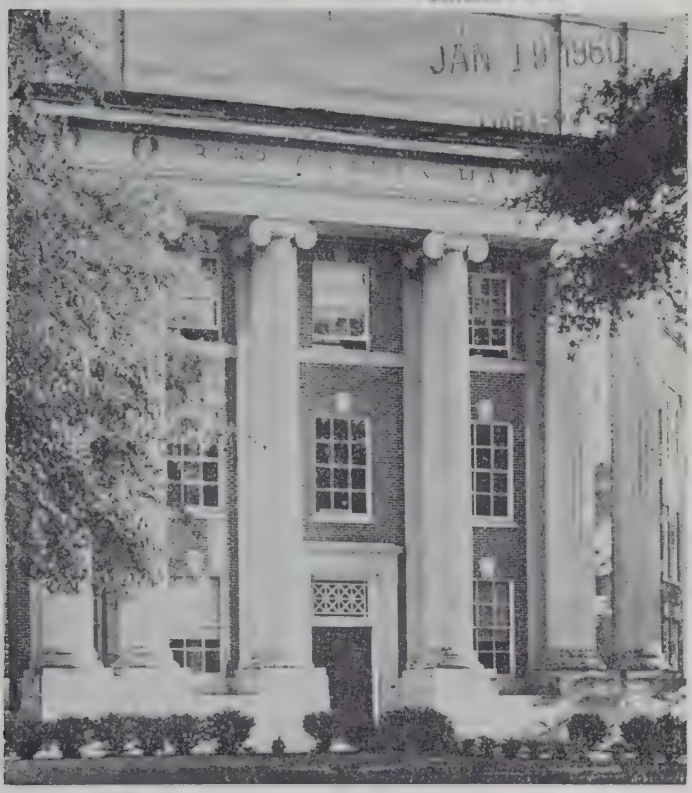
offered by

THE COLLEGE OF EDUCATION

University of Alabama

IN OFF-CAMPUS GRADUATE CENTERS

School Year 1959 - 1960



GRAVES HALL

Headquarters for College of Education

Entered as second class matter at the post office at University, Alabama, under Act of August 24, 1912. Issued monthly by the Extension Division of the University of Alabama, University, Alabama.

Volume 17 JULY, 1959 Number 1

The Extension Division cooperates in all appropriate ways to bring the services of the University to all citizens who desire to make use of any of its resources and facilities, but who are not able or do not desire to give full time to furthering their education and training. Particularly valuable are the services of the Extension Division in helping to bring to those engaged in educational work opportunities for graduate study. This bulletin contains the announcement of the graduate courses offered by the College of Education for the school year 1959-60.

REGISTRATION

Several weeks prior to registration time, those who wish to pursue graduate courses should apply to the Dean of the Graduate School for admission to graduate study, if they have not already been admitted. The Graduate School office will supply, upon request, application blanks for admission. Applicants should also request the registrar of the institution from which they graduated, including the University of Alabama. to mail a transcript of their credits to the Dean of the Graduate School. Applicants will be notified when their credits have been evaluated.

Students expecting to undertake graduate work at the University of Alabama should state as precisely as possible on the application blank for admission to graduate study the subject or field of knowledge or the professional school in which they wish to major. After the student has been admitted to the Graduate School, all communications in regard to eligibility for a course or program of study which may be available at a University Center should be directed to the major division of the University, that is the school or college, which offers such course or program of study in the event the student does not know the individual faculty member of that major division who is immediately responsble for counseling and guidance in regard to the course or program of study. In case of doubt, t is always in order to address the inquiry to the dean of the school or college concerned.

Registration for graduate courses can be facilitated by following the above instructions.

The classes described in this bulletin are held at the University of Alabama Centers in Birmingham, Gadsden, Mobile, and Montgomery.

FEES*

The fees are as follows:

Registration Fee—$3.00

Course Fee—$11.00 per semester hour*

All fees are payable at the time of registration.

Birmingham Center

George W. Campbell,
Director
720 South 20th Street
Birmingham, Alabama

Mobile Center

Jack W. Jessee,
Acting Director
29 North Royal Street
Mobile, Alabama

Gadsden Center

Joe Boyd Ezell,
Director
121 North First Street
Gadsden, Alabama

Montgomery Center

W. W. Kaempfer,
Director
435 Bell Street
Montgomery, Alabama

The Directors of the Centers or someone designated will have responsibility for handling registration, collection of fees, arrangements for classrooms, etc.

All students must register not later than the first class meeting. They will be expected to attend all class meetings.

*For information regarding fees for qualified persons other than Alabama Teachers, see the Director of the University Center where the course is offered.

LIBRARY FACILITIES

All required reading materials will be provided. These materials will be available at the center library.

TEXTBOOKS

Textbooks may be secured through regular University channels from the Supply Store, or they may be purchased directly from the publisher. Arrange these matters with the instructor.

OFF-CAMPUS GRADUATE COURSES

Under the authority of the Graduate Council of the University of Alabama and through the cooperation and facilities of the Extension Division of the University a number of graduate courses in professional education for classroom teachers and other school leaders will be offered in various off-campus graduate centers by the College of Education during the school year 1959-60.

These courses are offered for the benefit of those living reasonably near the various centers who have already secured a bachelor's degree from a recognized standard institution on the basis of an approved undergraduate program for the education and training of teachers.

Courses carrying a credit of three semester hours will meet for fifteen regular class periods for the purposes of instruction and study. In addition, there will be an initial meeting for registration and organization for work and a final meeting for examination. The class period for instruction and study will be a three-hour session. The schedule which follows shows the facts about class meeting for each course.

Shown below are the off-campus centers where the work will be done and the courses to be offered. In the case of each course, the amount of credit and the name of the faculty member who will do the teaching are shown.

Full time teachers who are eligible for any of the courses listed below may register for one course each semester making two for the entire year.

UNIVERSITY CENTERS

Birmingham Center

First Semester

SPE. 103 The Exceptional School Child. Tuesday, each week, 6-9 p.m. Three Semeter Hours. Mr. Harvey. First meeting of class will be Tuesday, 6-9 p.m., September 22, 1959.

Ed. 210 Improvement of Reading. Monday, each week, 6-9 p.m. Three Semester Hours. Dr. Thompson. First meeting of class will be Monday, 6-9 p.m., September 21, 1959.

PE. 212 The Physical Education Curriculum. Tuesday, each week, 6-9 p.m. Three Semester Hours. Dr. Johnson. First meeting of class will be Tuesday, 6-9 p.m., September 22, 1959.

Ed. 264 Guiding Learning in Secondary School. Monday, each week, 6-9 p.m. Three Semester Hours. Dr. Davis. First meeting of class will be Monday, 6-9 p.m., September 21, 1959.

Ed. 275 Organization and Administration of Public Education. Tuesday, each week, 6-9 p.m. Three Semester Hours. Dr. Howard. First meeting of class will be Tuesday, 6-9 p.m., September 22, 1959.

Second Semester

Ed. 201 Creative Arts in the Elementary School. Monday, each week, 6-9 p.m. Three Semester Hours. Miss James. First meeting of class will be Monday, 6-9 p.m., February 1, 1960.

SPE. 206 Teaching Mentally Retarded Children. Tuesday, each week, 6-9 p.m. Three Semester Hours. Mr. Harvey. First meeting of class will be Tuesday, 6-9 p.m., February 2, 1960.

PE. 218 Health Instruction. Thursday, each week, 6-9 p.m. Three Semester Hours. Dr. Baughman. First meeting of class will be Thursday, 6-9 p.m., February 4, 1960.

Ed. 276 Organization and Administration of Public Education. Tuesday, each week, 6-9 p.m. Three Semester Hours. Dr. Howard. First meeting of class will be Tuesday, 6-9 p.m., February 2, 1960.

Ed. 348 Organization and Administration of Elementary Education. Monday, each week, 6-9 p.m. Three Semester Hours. Dr. Thompson. First meeting of class will be Monday, 6-9 p.m., February 1, 1960.

Gadsden Center

First Semester

Ed. 383 Problems in Teacher Personnel. Thursday, each week, 6-9 p.m. Three Semester Hours. Dr. Hadley. First meeting of class will be Thursday, 6-9 p.m., September 17, 1959.

Second Semester

Ed. 210 Improvement of Reading. Wednesday, each week, 6-9 p.m. Three Semester Hours. Dr. Thompson. First meeting of class will be Wednesday, 6-9 p.m., February 3, 1960.

Ed. 403 School-Community Relations and the Curriculum. Wednesday, each week 6-9 p.m. Three Semester Hours. Dr. Hadley. First meeting of class will be Wednesday, 6-9 p.m., February 3, 1960.

Mobile Center

First Semester

Ed. 217 The Language Arts Program in the Elementary School. Saturday, each week, 10 a.m. - 1 p.m. Three Semester Hours. Miss James. First meeting of class will be Saturday, 10 a.m. - 1 p.m., September 19, 1959.

Ed. 311 Principles of Guidance. Saturday, each week, 10 a.m. - 1 p.m. Three Semester Hours. Dr. Roberts. First meeting of class will be Saturday, 10 a.m. - 1 p.m., September 19, 1959.

Second Semester

Ed. 312 Techniques in Counseling. Saturday, each week, 10 a.m. - 1 p.m. Three Semester Hours. Dr. Roberts. First meeting of class will be Saturday, 10 a.m. - 1 p.m., February 6, 1960.

Montgomery Center

First Semester

SPE. 103 The Exceptional School Child. Thursday, each week, 6:30-9:30 p.m. Three Semester Hours. Dr. Groves. First meeting of class will be Thursday, 6:30-9:30 p.m., September 24, 1959.

Second Semester

SPE. 206 Teaching Mentally Retarded Children. Thursday, each week, 6:30-9:30 p.m. Three Semester Hours. Dr. Groves. First meeting of class will be Thursday, 6:30-9:30 p.m., February 4, 1960.

The satisfactory completion of the work in any one of the courses named above will go toward satisfying the minimum requirements for the master's degree or for the Class AA Professional Certificate, assuming the course is an appropriate one for the student's program. On the satisfactory completion of two such courses, the minimum residence requirements, in accordance with the policy of the Graduate Council, will be reduced to the extent of six weeks. In like manner, the satisfactory completion of four such courses will reduce the minimum residence period to the extent of twelve weeks.

Qualified teachers may undertake to complete as many off-campus courses as they wish, over a period of years, but the preceding statement indicates the maximum reduction of residence study on the campus for work toward the Master's degree or for the Class AA Certificate as the case may be. Full-time teachers may register for only one course during one period of study and may not be enrolled in a coures while carrying any other work with the University or any other institution.

For further information regarding eligibility for any of these courses or the desirability of any one of them being made a part of the minimum requirements for the master's or higher degree in education at the University, write to the Dean of the College of Education or, if the student already has an official graduate adviser, to the adviser. For further information regarding scope and purposes of any course, write to or consult with the faculty member in charge of the course.

RALPH W. COWART, Interim Dean
College of Education
University, Alabama
July, 1959

University of Alabama
EXTENSION NEWS BULLETIN

University, Alabama

DENNY CHIMES

Entered as Second-Class Matter
at the University Post Office
University, Alabama

U. of A. Studies Plans for Awarding Degrees at Birmingham and Huntsville

Plans for enabling selected students at the Birmingham and Huntsville Centers to earn engineering degrees at those units, were announced by Dr. Frank A. Rose last month.

The announcement came during a day-long meeting at the Capstone of the President's Council on Development late in February.

Dr. Rose said that a faculty committee of the Engineering College is now at work considering specific steps which should be taken toward the projected four-year engineering program.

Said President Rose: "The University recognizes the increasing demand for technically trained leadership, particularly in the industrial centers of Birmingham and Huntsville. Evidence is already at hand that the prominent industrial and other community leaders of these areas are willing to give strong support to undergird and strengthen these programs."

He continued, "Plans are under way to authorize the awarding of an engineering degree at these units to selected students within the minimum amount of time permitted by accrediting agencies."

Over 200 leaders of Alabama business and industry attended the conference and groundbreaking ceremonies for the new UA Mineral Industries Building.

Hulon W. Black, formerly director of the University of Texas development program, was luncheon speaker following a morning of reports from Capstone development leaders.

During the morning session Dr. Rose announced that $2,800,000 already has been pledged to the campaign and that the goal of $5 million set for raising by June 1 of this year will surely be reached.

UNIVERSITY OF ALABAMA

EXTENSION NEWS BULLETIN

"The University Campus Covers the State"

March, 1960 | UNIVERSITY, ALABAMA | Vol. 17, No. 9

Dr. Wyatt C. Blasingame . . . deceased

UA Prof Emeritus Dies In Tuscaloosa

Dr. Wyatt Childs Blasingame, professor emeritus of public health at the University, and long-time member of the UA Extension Division, died at Druid City Hospital March 4.

He was associated with the University from 1928 until his retirement in 1945.

Before joining the UA he was principal and superintendent in several Alabama school systems and was professor of secondary education at Auburn.

As Supervisor of Counselling and Guidance Service, Dr. Blasingame helped organize the Alabama High School Debating League, and assisted in setting up the Alabama High Schools Publication Association. Both of these organizations, now operating as the Alabama High School Forensic League and the Press Association, have been active since that time.

In 1945 Dr. Blasingame was faculty winner of the Algernon Sydney Sullivan award.

He is survived by his widow; two sons, Lurton Blasingame of New York City and Wyatt Blasingame of Anna Maria, Fla.; and a daughter, Mrs. Alice Engwall of Mobile.

Huntsville Building Continues To Grow

Much of the groundwork has been done on the new Huntsville Center, according to Center Director Philip Mason.

Although hampered by bad weather during February and March, construction crews have dug foundations, poured concrete footings and poured some of the concrete wall sections. Some utility lines have been laid.

Expected date for completion of the new building is December 28.

UNIVERSITY OF ALABAMA CONFERENCE SCHEDULE
April 1 - June 30

April 2	Regional Conference of Mathematics, Science, Modern Foreign Language Teachers and Counselors
April 6- 9	Regional Meeting of American Institute of Electrical Engineers
April 8- 9	Motor Court Management Institute
April 11-15	Alabama State Fire School, Trade and Industrial Education State Office (Northington Campus)
April 11-16	CPA Review Course: Accounting Theory
April 18-30	CPA Review Course: Accounting Practice
April 20-23	Alabama Music Educators Association Band and Choral Competition
April 28-May 1	Southeastern Regional Composers' Forum
May 1- 6	REA Short Course on Live Wire Training, Trade and Industrial Education State Office (Northington Campus)
May 2- 7	CPA Review Course: Auditing
May 9-14	CPA Review Course: Commercial Law
May 16-17	Conference on Utilization of Scientists and Engineers
May 19-20	Electronic Data Processing Conference
May 30-June 3	Boys' State
May 30-June 3	School Lunch Conference
May 30-June 3	Institute on the Operation of Building and Loan Associations
May 30-June 11	High School Music Camp
June 6-10	High School Driver Instructors Training Course
June 8- 9	Conference on Aging
June 9-11	American Association of University Women Workshop
June 14-31	Institute of the Alabama Congress of Parent-Teacher Associations
June 19-21	Conference, Elementary Principals Association
June 19-23	State Education Conference
June 20-24	Conference for School Transportation Personnel
June 22	Conference, Retired Teachers Association
June 22-23	Delta Kappa Gamma Workshop
June 28-29	Alabama Federation of Womens Clubs Workshop

4500 ATTEND CONFERENCES HERE

More than 4500 persons have attended professional conferences, short courses, and clinics on the University campus since the beginning of the current academic year, according to Charles E. Adams, UA Coordinator of Conference Activities.

Providing meeting facilities, resource and administrative personnel, and in some instances living quarters, the University last year played host to 18,000 Alabamians and out-of-staters.

The 4500 total to date this year includes delegates to some 30 conferences held at the Capstone.

The largest of these, in terms of number attending, was the annual AMEA Band, Choral and Orchestra Festival, where nearly 1,000 high school students were registered.

Other well-attended conferences included the Alabama High School Press Association Clinic, with 500; Alabama Future Nurses Conference, 200; Federal Tax Clinic, 193; Alabama Conference on Handicapped Children, 310; Diversified Occupation Clubs, 500.

Of the 30 conferences held so far, eight were attended by young people of high school and college age.

The University, acting in cooperation with various groups around the state, conducted conferences on such varied subjects as urban renewal, rehabilitation of the emotionally disturbed, operation of community theaters, health and physical education, real estate sales, and institutional food service.

U. S. Congressmen Study Alabama ETV In Birmingham Visit

Three U.S. Congressmen and their staff members visited Birmingham during December to study the organization of the Alabama Educational Television Network. They composed one of two Congressional units touring leading ETV areas to learn to what degree Federal aid might be needed.

Alabama Fourth District Representative Kenneth Roberts, Anniston, chairman of the Committee, said the group had been fairly well convinced that ETV is an essential aid to the increasing educational problem of teacher shortages and growing number of students.

"However," he explained, "the Committee is on this tour to see if there is need of Federal assistance, and if so, how it should be offered."

With Congressman Roberts on the Southern tour were Congressman Dan Rostenkowski and Harold R. Collier, both of Illinois.

The Committee toured several elementary schools in the Birmingham area to talk to students and teachers as well as to see in-school utilization. The Committee stated this was their first opportunity to see the telecourses used by pupils. They expressed interest in the praise from both teachers and students on all grade levels.

Testifying at the committee hearing were outstanding businessmen, broadcasters, educators and interested parties. Those taking part included: Lt. Gov. Albert Boutwell; Edward Norton, Chairman of the Board of Trustees, Birmingham - Southern College; Mrs. Ruth O'Kelley, president, Alabama Congress of Parents and Teachers; Dr. Paul Hardin, Jr., pastor, First Methodist Church, Birmingham; Ray Furr, general manager, station WAPI-TV; Robert Schlinkert, general manager, station WBRC-TV; Graydon Ausmus, director of University Broadcasting Services; Dr. Ralph Draughon, president, Auburn University;

Ed Wegener, Auburn-TV studio director; Dr. Fred Simmons, superintendent, Jefferson County Schools; Dr. Frazer Banks and Evelyn Walker, both of the Birmingham studio; Dr. Theodore Wright, Birmingham Superintendent of Schools; Barney Weeks, president, Alabama Labor Council, AFL-CIO; and Dr. Ed Williams, Coordination Director, in-school project.

"Solitude is as needful to the imagination as society is wholesome for the character."

—Logan P. Smith

Small Business Research Is Under Way

Bigger profits and more efficiency for small business. This is the aim of a series of research studies under way at the Capstone made possible by a $40,000 grant from the Small Business Administration.

Paul W. Paustian, acting director of the UA Bureau of Business Research, is coordinator. He said the studies, among other things, will answer for Alabamians these questions:

Contribution of all types of small enterprise to the total economic activity of the people of Alabama.

Proportion of manufacturing employment and wages accounted for by small manufacturers.

Particular lines of manufacturing that operate successfully in Alabama.

Significant problems commonly experienced by small business managers.

Work on the structure of small business in Alabama is being conducted by permanent personnel of the Bureau of Business Research.

Contributing their time along with Dr. Paustian on the overall research project are James R. Brown, Research Associate and editor of Alabama Business and Alabama Retail Trade; John E. Lewis, Jr., and Mrs. Marion H. Hawley, both Research Associates.

Paustian said the Capstone is one of 52 Small Business Research Grant recipients in the nation. He added that in Alabama alone 88 percent of the manufacturing firms are small business enterprises.

Paustian said further that leaders among successful managers of small manufacturing firms in Alabama have indicated a need for information, interpretation, case studies and suggested solutions to certain problems of taxation, cost, control, and marketing.

Dr. Paul E. Alyea, professor of finance in the UA Commerce School, has begun work on a phase of the tax problem as it affects small business.

Dr. W. C. Flewellen, professor of accounting in the Commerce School, is engaged in research which will result in publication of a study based on "an analysis of cost control problems of small manufacturers in Alabama."

Dr. Donald F. Mulvihill, professor of marketing in the Commerce School, has agreed to supervise research on Purchasing Problems of Small Manufacturers.

Current Affairs Forum Is Offered At Gadsden

The Gadsden Center's Current Affairs Forum for 1959-60 has been most successful. Some of the community's outstanding civic and business leaders assisted in promoting membership in this project.

Some 70 persons subscribed to the series of five lectures.

The series was begun in November by Dr. Kenneth Whiting, professor of Russian History at Air University, who spoke on "Some Recent Trends in the Soviet Union."

Other lecturers on the series included Dr. John Ramsey, professor of European history at the UA; Dean Robert S. Lancaster, Dean of Arts and Sciences at the University of the South; James Couey, vice president and general manager, the Birmingham News; and George Bucher, special scientific assistant to the Chief of Operations Development at Redstone Arsenal.

Both pine trees and cotton produce the same basic fiber—cellulose.

PLANNING ANOTHER SUCCESSFUL UA CONFERENCE . . . The five School Lunch Conference planners shown above are looking forward to May 30 when their group will cooperate with the University of Alabama in presenting an imaginative and valuable conference. Typical of the many conferences held at the Capstone, this conference will be set up and kept running smoothly by Charles Adams of the Extension Division, and publicized by the UA News Bureau. Shown seated are Dr. Bessie Davey, University (left), and Mrs. Nadine Phillips, Fairfield. Standing are, left to right, Miss Catherine Turner, University; Mrs. John Richter, Cullman; Miss Melissa Emory, Montgomery.

Four From Maxwell Finish On Campus

Four officers from Maxwell Air Force Base who were Montgomery Center students before going to the campus completed their degree requirements in January. Lieutenant Colonel Theodore W. Bozarth, Lieutenant Colonel George G. Loving, Jr., Major John T. Garwin, and Major William J. Luckey were the four who attended the University of Alabama under the Air Force "Bootstrap" program.

In skating over thin ice our safety is our speed.

—Ralph W. Emerson

HONORS RECIPIENTS . . . Shown receiving awards during the Birmingham Festival of Arts are, left to right, Chris Dunn, Birmingham, and Mrs. T. R. Bell, Sylacauga, winners of Festival Playwriting Awards; and Mortimer Jordan, president of the Birmingham Chamber of Commerce, who presented Recognition Awards to James Hatcher, far right, and Town and Gown Civic Theatre. Hatcher is long-time director of Town and Gown.

HATCHER, TOWN AND GOWN ARE HONORED

Well-deserved recognition was given to the Birmingham Center's Town and Gown Civic Theatre and its director, James Hatcher, recently when the Birmingham Chamber of Commerce presented Hatcher and Town and Gown with Recognition Awards.

Mortimer H. Jordan, president of the Birmingham Chamber, made the presentations "in recognition of Mr. Hatcher and Town and Gown for outstanding and dedicated service to the community and people of Birmingham which will provide an inspiration to future generations."

Hatcher was cited for his guidance of Town and Gown during the past ten seasons and for the recognition he has brought to Birmingham as the recent recipient of national honors. In November he was appointed Producer of the Miss America Pageant in Atlantic City.

Town and Gown is the Birmingham community theater sponsored by the University of Alabama through the Birmingham Center. Already this season Town and Gown has produced three plays on its regular series; two programs on its experimental series; three plays on the Birmingham Junior Program series for children; a new pageant marking the 75th anniversary of the YMCA; the Junior Miss Alabama and Miss Alabama Scholarship Pageants; and a televised New Year's Eve Watch Night Service for the Methodist Youth of North Alabama.

LA INDUSTRIES AND UCLA COOPERATE IN USE OF ETV

The following report on an unusual experiment in cooperation between industry and UCLA educational television was written by William D. McIlvaine, formerly associated with the University of Alabama Extension Division, and now affiliated with Ramo-Wooldridge Corporation, which carries on research, development, and manufacture in the field of electronic systems and guided missiles.

"Some of the recent developments at Ramo-Wooldridge highlight the needs for the continuing education of employed persons. The borders of understanding in the physical sciences and mathematics are being pushed back so far that it is quite a problem for the individual to expand his understanding to include these new but relatively well established areas of learning.

"The creation of the 'Intellectronics Laboratories' at Ramo-Wooldridge indicates this trend toward new and more involved fields of science and technology. The laboratories are now exploring ways in which computers can be used to perform the routine repetitive mental chores and designing systems that will combine the efforts of computers with those of the human brain.

Extension Alert

California offers a wide variety of evening classes and is also engaged in a TV experiment in education. This program started with the recording on sound film of Matrix Methods in Engineering by Dr. Louise Pipes, one of the outstanding engineering professors at UCLA.

Ramo-Wooldridge is one of eight companies helping to meet broadcasting costs in return for the educational service. Ramo-Wooldridge set up a TV in each of four conference rooms and there are presently more than 60 employees regularly viewing these broadcasts.

May Reach 10,000

"The recording of a course on sound film certainly expands capabilities of the faculty. The normal size of a class of this type might be in the neighborhood of 50 students. The present series of telecasts is undoubtedly reaching well over 500 students. In addition, the course is still on film and it is likely that the filmed course will reach 10,000 students.

"Alabamians will be interested to know that filming of the new

(Continued on page 4)

C. E. Williams Has Fatal Heart Attack

C. E. Williams, director of the UA Summer School since 1943, suffered a fatal heart attack March 15. He was stricken on campus shortly after leaving his office.

The veteran teacher and administrator who had the equivalent rank of Dean at the Capstone, was named assistant summer school director on returning to the UA in 1928 from Arkansas College where for two years he had been head of the history department.

He had served as a member of the history department staff at the Capstone since 1934.

The summer school conferences, heavy at the University in the late spring and summer months, were for many years set up and coordinated by Mr. Williams.

Cudworth Announces Huntsville Research Bureau Appointment

Dr. James R. Cudworth, Dean of the University of Alabama College of Engineering, announced that Edwin M. Bartee has been appointed as the engineering research representative of the Bureau of Engineering Research in the Huntsville area. His office will be temporarily located in the Miller Building in Huntsville.

Bartee was born in Sylacauga, Alabama. He received his education at Birmingham-Southern College, the University of New Hampshire, and the University of Alabama. He holds a Master of Science degree in Engineering from the U of A. Mr. Bartee has had wide experience in industry. He was formerly employed by Bruce Payne & Associates as a Management Consultant, by Brown Engineering as their executive vice president, and by ARGMA as a branch chief in their research and development program. He is presently an associate professor of engineering at the University of Alabama Huntsville Center and a practicing professional engineer. Bartee is married and has three sons, aged 10, 7 and 6.

In making this announcement, Dean Cudworth stated that the University of Alabama is in the process of improving its services in the Huntsville area. These services represent undergraduate and graduate programs, and research and counseling services.

Creative Arts Course

A short course in the creative arts is being offered by the Dothan Center. Participating from the main campus are Dr. T. E. Klitzke, Howard Goodson, Dr. J. F. Goosen, David Cohen, and Charles I. Patterson.

Groucho Marx
. . . Sounds Off On TV

"Speak Out" Groucho Urges TV Viewers

Few modes of communication are having the impact on the public, and hence adult education, that television is.

Groucho Marx, speaking out on the matter to Hollywood columnist Joe Hyams this past month, especially touched on the matter of censorship.

He said he favored turning over one channel to something like "Town Hall" where anyone could go and say anything he wants. People are afraid to speak out these days, maintained Groucho. But he said that didn't include him.

"If I get fired and they throw me out I'll put a feather in my cap, buy some short leather pants and go to Switzerland and play tennis with Charlie Chaplin," said Groucho.

When it comes to professional appraisal of television, Groucho said he preferred to hear from "revolving critics" instead. Let the people who watch it for enjoyment, the housewife, the truck driver, the doctor or railroad conductor, each have his say, urged Groucho.

Citizenship Course

A special assist to persons preparing to take United States citizenship examinations is being offered by the Huntsville Center.

The free course called "Citizenship," begun in January, is being taught by Dr. Frances Roberts, associate professor of history at the Center.

In 10 two-hour weekly sessions the course treats such topics as the history of the United States, studies on the Constitution, and studies in local and state government.

Engineering Labs Open

Two Engineering Laboratory courses, providing an expanded opportunity for engineering students to obtain laboratory work before their residence requirements on campus, are now being offered by the Huntsville Center.

Smith Named Finance Assistant At Huntsville

Charles R. Smith has been appointed Finance Assistant to the Director at the Huntsville Center according to an announcement by Philip M. Mason, Center Director.

Smith, a native of Perry County, is a graduate of the University of Alabama and received his Masters degree in business administration in accounting from the University.

For the past two years he has been Assistant Internal Auditor at the University's main campus. He is a member of Beta Alpha Phi national honorary professional accounting society.

Smith assumed his duties at the Huntsville Center February 1.

Gadsden Establishes Scholarship Program

Several scholarships to the Gadsden Center were established there during the fall and winter quarters by interested groups in that city.

The first such scholarship was provided by the Gadsden Chamber of Commerce, and was awarded to John M. Olive of Gadsden.

Assisting in setting up the scholarship program was the Center Advisory Committee, a group set up to improve the Center and increase its service to the Gadsden area.

The Committee plans to broaden the scholarship program in the future, with several organizations in the community participating.

DISCUSSING A MUSICAL SERIES produced over station WUOA-FM are University Broadcasting staffers David Marxer and Mrs. Harriet Rowand.

Gadsden Center Elects Officers

The Gadsden Center Student Government Association elected officers late in October, choosing the following officers and council members: Mrs. Bobby Miller, president; Charles Ellenberg, vice president; Mrs. Jeanne Noojin, secretary-treasurer; and council members Ruby Safford, Margaret Rutledge, Frances Brooks, Buel Benefield, and Marie Luker.

Mrs. Miller's resignation in January moved Ellenberg into the presidency. Arthur J. Gibbs was appointed to the council to fill the vacancy.

A big project for SGA this year has been the setting up of a newspaper for the Center. In this they have worked with journalism classes and the faculty.

Short Course Held April 5-6

The second of two short-courses in accounting and auditing was held on the University campus April 5-6 for unemployment insurance field deputies from the State Department of Industrial Relations.

4th Link In ETV Chain Is Possible

A fourth station in the Alabama Educational Television chain, to be located at Mobile, was made a definite possibility with the projected gift recently of $100,000 worth of transmission facilities and studio.

Making the gift was Station WALA-TV of Mobile which plans to present the ETV Commission with a 732 foot tower and 3,000 square feet of studio floor space.

The transference of equipment and building space will take place when WALA-TV receives permission from the Federal Communications Commission to build a new tower and studio.

Raymond Hurlbert, general manager of the Alabama ETV Commission, said the Commission had been gradually assembling transmission equipment for Mobile, and that necessary broadcasting equipment is now available.

He said that $100,000, possibly to come from federal or state funds, is needed to provide microwave links to connect the network with Mobile.

UA Staffer Reports

(Continued from page 1)

TV course was engineered by Rudy Bretz, who was closely associated with the development of the educational TV network in Alabama. Approval of Ramo-Wooldridge's subscribing to this educational service was made by a graduate of the University of Alabama, Frank Melograno, director of industrial relations for Ramo-Wooldridge."

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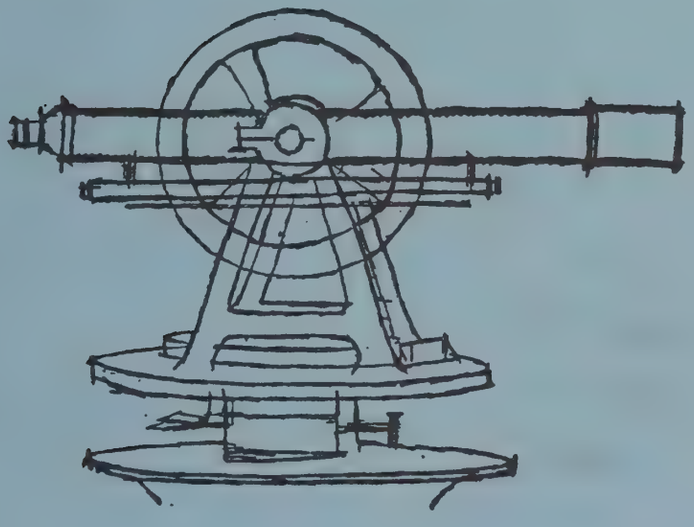
Right of Way Conference



SELECTED PAPERS

January 14-15, 1960

UNIVERSITY OF ALABAMA
EXTENSION NEWS BULLETIN

RIGHT OF WAY CONFERENCE

SPONSORED BY:

CHAPTER 24, AMERICAN RIGHT OF WAY ASSOCIATION

ALABAMA STATE HIGHWAY DEPARTMENT

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FOREWORD

The acquisition of lands and rights of way is essentially an adversary proceeding, and those who are responsible for carrying it forward meet with many rebuffs. It is also a complicated and intricate business that often gets out of joint. The conferences which we have had for the past two years at the University have been designed to salve the wounds and solve the problems encountered in this most difficult business.

For the splendid efforts which members of the University have put forth in making these meetings possible, we are most grateful; and to the participants in the conference of 1960, whose addresses are set forth in this book, we extend our sincere thanks.

Ollie D. Smith

President, Chapter 24
American Right of Way Association

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A JUDGE LOOKS AT RIGHT OF WAY CONDEMNATION PROCEEDINGS

VIRGIL PITTMAN, *Judge*
Sixteenth Judicial Circuit
Gadsden, Alabama

I am going to change the subject I have been given to speak on from "A JUDGE LOOKS AT RIGHT OF WAY CONDEMNATION PROCEEDINGS" to "A JUDGE LOOKS AT RIGHT OF WAY CONDEMNATION PROCEEDINGS – AS UNNECESSARY."

The wise and eminent Justice Oliver Wendell Holmes, formerly of the United States Supreme Court, at one time stated in substance, "No generalization is worth a hang, including this one." That statement can be applied to the generalization that I have just made. My statement is an exaggeration for the purpose of dramatizing a point. I do feel that a trial of condemnation proceedings should be in a very real sense the last resort between the parties. Every effort should be made for the case to be settled before going to trial. I realize that today most of you here will be witnesses for or representatives of the condemning authority. Therefore, from the interest of those here the remarks of this Conference are likely to be cast generally from the viewpoint of the condemning authority. For this reason I desire to focus a moment's attention on the property owner's problem.

In every instance property is being "taken" from someone "by process of law" rather than the property being placed on the market and offered for sale by the property owner, or someone desiring the property entering into negotiations with the property owner and in either event, if the property will not bring the owner's price he has complete liberty to withdraw the property from the market and keep it until dooms' day. I know that no one here who represents the condemning authorities has any desire to take property without paying the owner just compensation which the law says he is entitled to. I want to take this occasion to urge you away from rigidity of thought and action in an effort to encourage you to minimize the number of trials that take place. I fully realize that there may be instances where the value placed on the property by the property owner, or those representing his interests or for one reason or another may be excessively out of line or an exaggerated figure, and that your only resource is a circuit court trial. However, it has been my experience and other circuit judges tell me that it has been their experience that when there is bona fide effort to reconcile viewpoints before the

actual trial of a case in circuit court in most instances the case can be settled on a basis agreeable to both sides. The condemning authorities should maintain an open mind and should not hold its appraiser's estimates sacrosant or sacred. Go over the appraiser's figures and be in on the negotiations and urge a reconciliation of opposing viewpoints.

Now, if settlement fails, you are interested in what happens when a case comes to trial in circuit court and the rest of my remarks will be directed along those lines. It has been the experience of some judges that the appraisers in considering vacant property "within the city limits" are not always considering the element of its highest and best use. For example, oftentimes land is vacant and is used for pasture but is given no consideration whatsoever as vacant building lots.

On the other hand appraisers for property owners too often disappear into the realm of fancy and indulge in speculation or conjecture as to the highest and best use of the property. The highest and best use does not and should not rest upon the highest and best imagination of the appraiser but should be based on investigation and analysis following the approved appraisal procedures and particularly "without a predetermined goal." And remember, the measure of damages is the "fair market value" of the property "at time of condemnation" of the property under consideration when all of it is taken. If only a portion of the property is taken it is the difference between the fair market value of the entire tract before the taking and the fair market value of the tract remaining after the taking. And fair market value is not a speculative figure based upon the contingency "if" the highest and best use comes along at some future time, but is the fair market value of the property at the time of the taking considering what effect its highest and best use has on its value at the "time of condemnation."

Those of us who handle the trial of condemnation proceedings, and thoughtful realtors and appraisers, and jurors, and laymen who are handling this problem from day to day are becoming concerned with the unusual and enormous variation in values placed on the property by the condemning authority's appraisers and the values placed on the same property by the property owner's appraisers. I have two specific instances in mind. One, the difference of the fair market value before and after the taking varied from $1 by the experts testifying for the condemning authority to $18,900 by the owner's experts. I know another instance where the experts for the condemning authority testified that the fair market value of the property taken was $90,000 and the experts for the property owner testified that the fair market value of the property taken was $220,000. It is rather difficult for me, and I have heard laymen and realtors make the same statement, to see how experts who are trained in appraising property will vary "to this extent." If the experts are to get the confidence of the courts, jurors and the public, and if they are to build a reputation that merits confidence it appears to me reasonable to expect that the variation will not be nearly so great. Let me urge all

of you to remember that as an expert witness you are "not" an advocate. Let the lawyer be the advocate. At least everyone knows that he is an advocate of his client. He does not take the stand and he does not testify as a witness and the juries are usually instructed, certainly in my court, that the arguments and the inferences that the lawyers draw are not evidence.

It is to be expected that the expert's testimony as to the fair market value will vary. In fact, an expert's testimony of fair market value would be reasonably expected to vary because even though similar procedures and recognized procedures or practices are usually followed by all of them, in the final analysis the figure that is reached as representing the fair market value is a question of "judgment" of the experts. Judgment is an intangible factor and one that leaves room for variation. This should not unduly concern the appraiser. I have heard lawyers criticized in this manner, why you can go to a half dozen lawyers with a legal problem and get a half dozen different answers and you just can't tie one down to give a direct or exact answer. You may not realize it but this is in effect a recognition, although unrecognized, of the honesty and integrity and ability of the lawyers. Lawyers realize the law is not an exact science and there is more honesty and more ability in an answer that is hedged than by making a flat prediction of the outcome of a pending legal question. Realtor experts are also dealing with intangible factors and it is to be expected that there will be variations between experts, but again the variation should not be as enormous as the discrepancies that I have indicated and which could destroy the confidence that the public has in experts or prevent the building up of that confidence which I know everyone of you as a realtor wants the public to have of your profession. *Your testimony as an expert should be such that it would be the same regardless of who employed you as a witness, either the condemning agency or the property owner.* The appraisal should be approached only from the standpoint of ascertaining the fair market value and not from the standpoint of attempting to win a lawsuit.

Again I say, let the lawyers worry about the outcome of the lawsuit. The lawyers will, of course, talk to you before the trial so he will know what you expect to testify. If your testimony will not be of help to him then he will not call you. You will not be taking him or the party who called you as a witness by surprise. By all means the witnesses for either the condemning agency or for the property owners, including the real estate appraisers, engineers, or anyone who is to testify, should go over the case with the attorney for the side that has called him as a witness before trial. In this way the attorneys will know the evidence he is to give, the objections to be expected, the evidence that is admissible or inadmissible, and questions that the witness may have concerning procedures can be answered. All in all it will help the witness feel a little more at home in a strange surrounding and is better than if no preparation had been made. I think that it is needless to remind the lawyers here

that they should without exception go over the evidence of all witnesses before he takes the stand.

It may be that during the examination, particularly cross examination, while you are a witness on the stand that you will be asked to whom have you talked concerning the case before the trial. Let me emphasize this point, quickly and positively "assert" the name of each and every person that you have talked to about the case whenever questioned. By no means give the appearance of having to "confess" it or of desiring to avoid it or of making apologies for it. It is to be expected that you have discussed the case with the person that has employed you, with the attorney that represents him, and that you have discussed it with other persons during your preparation of the matters you have to give in evidence. There is nothing to be ashamed of and it only marks you as a diligent workman to show that you have discussed it with these persons. Of course, you will not let anyone suggest to you what you are to testify about and what you are not to testify about should it not represent the facts as you know them to be. When you are on the witness stand testify the truth and that is all that you will testify to.

Every witness that takes the stand in a lawsuit should be prepared and forewarned to expect a vigorous and even possibly a scathing cross-examination by the attorney for the opposing side. Do not under any circumstances get provoked at questions asked or lose your temper. If the question is improper leave it to the lawyer for the side that represents your client to object and if the objection is good the court will not require you to answer. Of course, if the objection is not well taken, then it is a matter that you should testify about and it is not something that gives you valid grounds for being provoked. Provocation many times indicates that the witness has something to hide or is ashamed of or that he is uncertain about the evidence he is giving. To become angry is a sure way to destroy the effectiveness of testimony. When a person becomes angry he usually stops being a "thinking" person and becomes a "feeling" creature. When an expert stops thinking then his main strength has been dissipated. You may expect questions as, are you hired by anybody to appear today, or how much are you being paid. You may feel that these questions by inference tend to cast aspersions on you and the amount that you are being paid is nobody's business but yours and the man that is paying you, but they are proper subjects for inquiry and you must be prepared if you are asked to answer those questions and the best thing to do is just to answer them with grace and if you are a highly paid expert, with pride. The question may be, what is your interest in the case. Your principal interest "should" be, and after a moment's thoughtful reflection you will agree, the truth. If that is your interest and you can say so and you "can convey" that thought to the jury you have gone a far way in making your evidence worthy of belief and you will do it by the manner in which you have testified before the jury. Make your word worth taking.

I find that a common mistake made, particularly among those who

have not had much experience as witnesses, is their desire to make statements beyond the scope of the question. Oftentimes the witness wants to make voluntary statements to explain an answer that he has given which by itself the witness thinks has failed to present a true picture. This is a natural feeling. However, the witness has not been in the courtroom during the entire course of the trial. He is not in a position to ascertain how the answer fits in with the other evidence. The witness has only a partial picture that the entire evidence has sketched. If your answer needs explaining your lawyer will have an opportunity to ask you additional questions along those lines when it becomes his turn to re-examine you. Let the lawyer run the case and let the lawyer worry about explanations. If you feel that the lawyer has overlooked something and you desire him to ask you further questions along a particular line, there is nothing wrong or improper at the time you come to leave the witness stand or after you have left the witness stand to take the matter up with the attorney in private and tell him what you have in mind and then accept his judgment as to whether or not an explanation is needed.

No one is infallible. Certainly in the realm where opinions and judgments are expressed in matters which are not capable of certain mathematical calculations such as values realtor experts deal in, therefore, do not let it upset you too much if there are certain things that cannot be explained with mathematical certainty and can only be reconciled with experience and judgment. On the other hand, the engineers' evidence usually calls for mathematical calculations and can be exact.

You may be faced with the uncomfortable proposition of having made a mistake during your testimony. None of us like to make mistakes but if a mistake is made and it is discovered during the course of time that you are on the witness stand then remember that we are all human beings. Do not let it fluster you too badly but accept it with the best grace possible. I do not mean to encourage you to make mistakes but if you should become too flustered or too concerned about some discrepancies or some errors or persist in an obvious error, you can very well destroy everything that you have said. Make the best of the situation and do not add to the problem.

All witnesses should speak up and speak out. Do not nod or shake your head for answers. Usually the court reporter will not be looking at you and the court or the reporter will have to ask you to speak out because the reporter has to write down every word or answer and all the jurors may not be looking at you and miss the answer. I think that the witness that speaks clear and distinct always carries more authority than the witness who mumbles or nods his head. After all *not only the knowledge that you have is important but how well you convey that knowledge to the jury and how well you sell the jury on your ability to speak as an authority on the matters you speak of is of prime importance.*

Witnesses under no circumstances before or during a trial should fraternize with the jury venire and more specifically with the jury that

is trying a particular case in which you may appear as a witness. It may be that you are discussing the weather, politics, or tomorrow night's social affair. Your conversation may be as harmless as a drink of water, but other persons concerned with the trial don't know that. Oftentimes it leaves the impression to other persons involved in the case that someone is trying to get their foot in the door by surreptitious means. The best way to avoid such a climate of suspicion is to stay away from jurors, even your friends on the jury, during the time that you are a witness in a case that is on trial. It is not good to travel to and from the courthouse with jurors or to have lunch with them or to do anything that possibly could arouse suspicion. Again, I say *your conduct may be completely harmless but part of the strength of our courts is "confidence" and when that confidence is shaken regardless of whether it is shaken by false appearances or for real causes the ultimate results are the same.* We should do all that we can to avoid that, but on the contrary do all that we can to build up confidence in our courts.

If you as a witness should have a problem in your business with reference to being in court at the time the case is called for trial, or at the time the trial is actually taking place, and the time you are to be used as a witness, this is a problem that you should take up with the attorney which has subpoenaed you. Both parties to a lawsuit have a right to subpoena the witnesses they want and it would be amiss for a judge to excuse a witness' attendance to court without the attorneys concurrence. Furthermore, it is impossible for the judge to keep track of all the various and sundry witnesses during the course of a week's work. For instance, in my circuit we usually set for a week's work anywhere from eighty to a hundred and fifty cases. Just assuming that there are three witnesses for each side, we would have a total of four hundred and eighty to nine hundred witnesses in court for a particular week. The court will usually cooperate with the attorneys and make accommodations for placing the witnesses on telephone call, particularly when other cases are being tried. But again, the point that I want to make is that it is a matter for you to take up with your lawyer, and the lawyer will do as much as he can in cooperation with the court to facilitate your attendance in court.

Now I would like to explain two or three things that happen during a trial that you might not understand. You may be on the witness stand testifying and the court and the attorneys will hold a whispered conference at the bench. This is not an effort to keep anything from the witness or from the parties or from the jury that they "should" know. From time to time there are questions of law that come up and to save the trouble and time of going outside the courtroom, the judge will hold a whispered conference for the purpose of settling those points of law. If they were discussed out loud then every one could hear them. It is possible and often probable that improper prejudicial matters would reach the ears of the jury during such a discussion which would be difficult to erase from their minds. For this reason the conferences are out of their hearing. You should

let it be of no concern or worry to you whatsoever. It is merely a mechanism for the convenience of the court.

Delays or apparent delays in the business of the court are of concern to everyone. Oftentimes it is only an illusion of delay. I have already mentioned the number of cases that we set for trial for a week's work in my court. We, of course, do operate two courtrooms to dispose of our work, that is there are two judges to try the cases during a week's setting, but if we started trying cases bright and early at the courthouse on Monday morning and did nothing but try cases all week long we would probably try from three to four cases each or a total of six or eight cases. Ordinarily during a week's work we dispose of thirty to forty cases. This means that by far the greater amount of work is disposed by settling the cases without a trial. The first four days of the week it is necessary to go through the cases set for trial on each day to see if the witnesses are in court or to take up any problems that arise with reference to why the case should or should not be tried. This always takes up thirty or forty minutes of the first four days work. We find that it is wise to have a conference period for the attorneys and parties to discuss the cases with reference to settling them after they are called for trial. I have found that patience and encouragement by the court pays big dividends in disposing of the work. I feel that if the parties can reach an agreement they leave the court more satisfied than if they have to have someone else to cut the knot so to speak. Whether or not the court's work moves along as fast as it should depends on the judge and how tight a rein he keeps on the proceedings. If you have a competent judge and he makes a bona fide effort to move the work along he can accomplish more work by a judicious use of what appears to be delay. Of course, if the judge does not keep a tight rein on his court the delay will become disruptive and of no avail. I do say give the judge the benefit of your doubts.

To the lawyers I would like to make these few observations. Be sure to interview your witnesses before trial time. To request a recess to interview witnesses works a hardship on everyone involved. Be prompt in your attendance to all of the court's proceedings. You would be surprised that some lawyers will continue to argue a point after the court has ruled in their favor. If I was a practicing attorney and the court ruled with me I would stop right there.

In the discussion of the law with the court do not resort to use of such phrases as "As your Honor well knows" or "It is an elementary rule of law" but rather have citations to back up your view. His Honor may well know and he may not. A citation is oftentimes more persuasive than an hour's argument. Have Alabama citations if possible and certainly exhaust the Alabama law in your research before resorting to out of state cases.

I expect that local real estate agents and local attorneys are more effective in a community where the case is tried than those from out of town. I think we must recognize that all of us are creatures of biases and prejudices to some extent. It may be that either or both of the parties

will desire out of town attorneys and out of town experts and that is well and good and I do not desire to suppress their use. But I think it is well to give serious consideration to the employment of local attorneys to be associated with the out of town attorneys and also to use local real estate agents in addition to others you may have. In some of the rural communities where it may be there are no real estate agents available some lay witness who is familiar with real estate values and the property in question can be effectively used. Oftentimes a town man thinks of a city man as a city slicker, and the country man thinks of a town man as a town dude, and the city or town man will think of the country man as a clodhopper. I do not mean to say that these feelings are necessarily universal but I do think these expressions which we have heard and seen used do express some feeling of bias and prejudice. I am recognizing a possible latent prejudice and suggesting you take steps to minimize it as much as possible.

It is my hope that after the heat of the battle and through the adversary proceedings of a jury trial that the truth will have been hammered out on the anvil of direct and cross examination and the jury will have determined and reported a verdict based on the truth and law. I believe and trust the property owner will not have suffered by reason of his property having been taken, nor that the impersonal thing called the Government will not have been penalized because it is impersonal, and that neither one nor the other, the condemning authority or the property owner, will have suffered injuries or will have been enriched at the other's expense.

WIDE DISPARITY IN APPRAISED VALUES

LAMAR SMITH, *Division Appraiser*
U. S. Department of Commerce
Bureau of Public Roads
Montgomery, Alabama

In assigning this topic, I believe you are asking me to attempt to answer two questions:

1. "Why is there sometimes wide disparity in appraised values between appraisers?"
and
2. "What can be done about it?"

As an appraiser myself, I feel somewhat like the fellow on the witness stand, to whom the lawyer said: "You must answer YES or NO. Now tell this Court whether or not you have stopped beating your wife."

I think that perhaps I have at least one outstanding qualification for speaking to you on this subject; namely, that I know almost nothing about it! . . . . . in the State of Alabama, that is. I am sure that you realize that the observations I make here today must be derived from situations existing in other parts of the country. I will not be presumptuous enough to suggest their application to local conditions, but will leave that decision to you.

The value estimate is a product of the appraiser's reasoning concerning the property. So, the real question is not: "Why is there sometimes disparity in appraised values?" The real question is: "Why is there sometimes wide disparity in reasoning between appraisers?"

I have a friend who is chief of real estate for a large government agency who has a strange method of reviewing appraisals. It is his habit to cover up all the major significant dollar amounts, including the final value estimate. He looks at none of these figures, but reads the narrative of the report to find out what the appraiser has said about the property and each of the comparables. When he has read everything between the covers the report except the value figures, this gentleman then writes out his own bracket of value for the property, according to the appraiser's reasoning in the narrative.

Let me tell you that when my friend looks at the appraiser's final value estimate, it had better agree with what has been said in the report.

He believes that the final value estimate is of no more importance than other portions of a narrative report, and that the contents of the appraisal narrative should convince the reader that the value estimate is correct.

When this man receives two reports that exhibit wide disparity in appraised value, this causes him no great problem. He approves the report that is the most convincing. If neither one convinces him, he throws them both in the waste basket and sends his staff assistant out to make a supportable appraisal.

Let us consider the predicament of a reviewing appraiser for a condemning agency, when he is faced with two or more appraisals having wide variation in the estimates of value. The reviewing appraiser is obliged to arrive at a single value and certify, prior to settlement with the property owner, that it is fair cash market value. At this point, several alternatives are usually open to him. No matter which course he takes, the responsibility for the value figure will ultimately be placed on his shoulders.

What are his alternatives?

1. *He may get a third independent appraisal.* I know of one agency that often uses this method. On one important property recently, they had obtained seven reports at the last count, and were still getting many inconsistencies in each report.
2. *He may appraise the property himself and write his own report.*
3. *He may have one of his staff assistants appraise the property,* with the hope that the resultant report will be one that he will be able to approve.
4. *He may call on the original appraisers to review their inconsistent reports,* with the hope that any major differences will be resolved into a reasonable range of indicated value, with proper support.

Often the fourth alternative is the most attractive, because it is less wasteful of appraisal cost funds, and it normally provides a better foundation for valuation testimony in the event the case goes to trial.

Among the difficulties encountered in the fourth alternative are:

1. *Some appraisers resent the implication that the report, as rendered, may need reconsideration.*
2. *There is danger that conferences between appraiser and employer may result in "instructed appraisals."*

I feel that if the relationship between employer and appraiser is established on a sound basis, and the obligations of both are completely understood, that both of these objections can be removed.

Actually, the employer-appraiser conference is nothing but an extension of the routine review methods practiced by most chief appraisers.

On properties of minor importance, this routine review may often be handled at the desk. On more important matters, the chief appraiser, or his assistants, may extend their review to field examination of the property. On major value questions, particularly when there is a wide difference of opinion among independent appraisers, it may be necessary to extend the review to the level of a conference with the independent appraisers.

Professional right-of-way people most generally realize than an appraisal is never an end in itself, but functions only to provide expert valuation advice. The responsibility for action, based on the advice, always belongs to the employer.

Employers who have the correct concept of review responsibilities never wish to convince the appraiser of anything, but merely wish to provide every opportunity for the appraiser to convince *them* that he has provided the most logical solution to the question of value.

Employers are not asking the appraisers how much they should pay for a parcel. They are not telling the appraisers how much they would like to pay. They are asking the appraiser to tell the dollar amount at which typical, well informed, willing sellers and buyers would trade. And the employer wants the appraiser to tell *WHY* this is so!

An appraiser who properly understands the employer-appraiser relationship, most generally regards the conference meeting as a fortunate opportunity. Here he may express himself verbally on phases of the problem that are often difficult to convey in writing.

Let me list for you eight conditions that must be agreed upon before we can ever hope that there will be reasonable consistency in final estimates of appraised values:

1. The appraisers must be neutral.
2. The appraisers must be equally competent.
3. The physical facts surrounding the taking must be in agreement.
4. The legal question must be in agreement.
5. The basic appraisal theories applicable to the problem must be in agreement.
6. The factual appraisal data must be in agreement.
7. Reasonable agreement on inferential data should be attempted.
8. It must be agreed that the final estimate is an individual responsibility.

Most would agree that consultation between employers and appraisers should be confined to points three, four, five and six.

Disparity is often caused by violation of points one and two. But, of course, the appraiser cannot prevent his employer from obtaining a concurrent appraisal from some person who may be unqualified or prejudiced.

Points seven and eight are elements that the employer cannot normally discuss with the appraiser, without danger of destroying the appraiser's independence of judgement, and the consequent likelihood of an "instructed appraisal."

I see no need to elaborate on the fact that the disparity problem exists and that it is serious. It has existed for a long time and I am sure you know that it is not confined to any one section of the country.

James M. DeBardeleben, right-of-way engineer for public roads, speaking to appraisers from Louisiana and Mississippi, last year, said:

> "How can we expect the layman juror to arrive at fair market value when the owner, in case after case, presents expert testimony of three to five times the value presented by the State's professional witnesses?"[1]

The Appraisal Institute and other groups dedicated to professional advancement are well aware of the problem. H. C. McKinney, M.A.I., of Arkansas, writing in the Appraisal Journal in 1956, called it: "the cancer of the appraisal profession."[2]

Perhaps then, if we will carefully dissect the appraisal profession we can demonstrate the causes of the malignancy.

THE APPRAISERS MUST BE NEUTRAL

I suppose a good appraiser is human just like anyone else. He has blood in his veins that runs hot or cold according to emotions of the moment. But the qualifications for his calling are very demanding, in that he must maintain intellectual neutrality, no matter what his emotions tell him. It is here that he is set apart from his brethren.

The natural optimism of the real estate salesman and the cautious pessimism of the mortgage lender are typical qualities that make it difficult for such persons to maintain the objective view needed to recognize market value.

The right-of-way negotiator, by the very nature of his job, must consider the hopes, fears and desires of the present owner.

My lawyer friends tell me that their prime responsibility should always be the possible amount of the final court award. This court award amount can hinge on a multitude of things, few of which may have anything to do with the market value of the property.

Let us consider a small home in the country. Perhaps there is an elderly grey haired lady rocking gently on the front porch. The real estate salesman, the mortgage lender, the negotiator, the lawyer and almost any person involved in land transactions might, perhaps justifiably, consider the price to be paid for the property in relation to the elderly lady on the porch. Yet, when the appraiser looks, he must remain intellectually neutral. He must see the property—not the person.

WHY? He is prevented from seeing her by "The Principle of Substitution" which states:

> "The maximum value of a property tends to be set out by cost of acquisition of an equally desirable and valuable substitute, assuming no costly delay is encountered in making the substitution."[3]

There are other reasons that keep the appraiser from seeing the lady, but my point is that wide disparity in appraisals is frequently caused by appraisers worrying about the owner instead of the ownership.

APPRAISERS MUST BE EQUALLY COMPETENT

There would seem to be no argument against the reasoning that we will continue to have disparity in appraised values unless technical appraisal proficiency is better recognized. Yet it might be well to study some of the reasons why totally unqualified appraisers are allowed to pray on the public.

There are organizations that continuously crusade for higher appraisal standards. You are all familiar with their accomplishments. There are annual conferences such as we have here today, co-sponsored by the American Right-of-Way Association, the Alabama Highway Department, and the University of Alabama.

The American Institute of Real Estate Appraisers and The Society of Residential Appraisers have pioneered in the educational and qualifications field for over 25 years. In my estimation, if they never registered another single accomplishment in the future, these organizations and others like them would deserve the undying gratitude of everyone in right-of-way work for what they have already done.

Yet with all the educational effort from dedicated groups of men, we still have wide variations in appraisals. And we are told that the courts in some jurisdictions are so disturbed about disparity that they are advocating the appointment of appraisers by the courts.

I believe that there are some in the appraisal profession that would welcome such a development, if the judiciary first would demonstrate more recognition of technically proficient and qualified appraisers.

Let me quote our own Maurice Bishop, one of Alabama's most capable trial attorneys and a noted authority on eminent domain:

> "One of the greatest problems facing us in the trial of condemnation cases today is the tendency of trial courts to receive, and of the Appellate Courts to approve, the admission of testimony from wholly unqualified persons."

He goes on to say further:

> "Unfortunately, the Alabama Supreme Court presently holds that one need not be an expert to be able to give testimony as to the value of real property, thus necessarily holding that market value is not a question of art or science which must be shown by the testimony of experts, but is a question of fact to be proven as any other fact."[4,5]

We see from this that the appraisal profession may expect little help from the courts in the expressed need for more recognition of appraisal proficiency. The increased use of appraisal services in condemnation proceedings has unfortunately not resulted in a corresponding increase in respect for the appraisal profession. What, then, is the answer?

A logical answer might be the enactment of licensing legislation for appraisers. All other professions, and many organized vocations, including physicians, chiropractors, real estate brokers, beauty operators, and barbers have had to resort to licensing procedures to protect the public from unscrupulous and incompentent practitioners. The appraisal profession might benefit from such regulatory legislation.

PHYSICAL FACTS MUST AGREE

When two or more appraisers are involved in an appraisal problem, there must be agreement on the physical facts if the appraisers are to avoid wide differences in the final value estimate. I have reference to such basic facts as the area of the taking, area of the remainder, the property lines of the whole ownership, and the locations of existing roads and improvements affecting the property, and other items necessary to a good right-of-way map.

I know of a right-of-way project in another state where the condemnor's appraisers went through the entire project, using maps that showed very little beyond the proposed right-of-way limits. As it later turned out, there were quite a few farms severed, resulting in land-locked remainders. The appraisers, without adequate maps, had based their estimates on a price per acre for the part taken and did not realize the landlocked condition of some of the remnants.

Of course, the landowner and his appraisers knew that the remainders were landlocked. You can well imagine that there was extreme disparity in the appraised values when the cases came to trial!

No map is worth anything for appraisal use that does not show the entire ownership, together with all the improvements on the land, including all the roads leading in and out of the ownership. I have seen appraisers sent out into the field with such miserable maps that it is amazing that they ever found the job, and even more amazing if they produced an acceptable appraisal of the property.

LEGAL QUESTIONS MUST BE IN AGREEMENT

Appraisers are continually being reminded that they are not lawyers. Most of us realize this, and yet, we are sometimes guilty of attempting to solve legal problems. The trouble is that almost every appraisal must rest on someone's interpretation of the law. If appraisers are to avoid disparity in appraised values, there must be early agreement on the legal premises that apply to the taking. These include even such fundamental items as:

1. The Purpose of the Appraisal
2. Definition of Just Compensation
3. Definition of Market Value
4. Date of Taking

On the basic questions, there is often easy agreement, but the list can be expanded indefinitely. When we enter the consideration of severance damage such questions emerge as:

1. Structure Removal Responsibilities
2. Loss of Access
3. Circuity of Travel
4. Exercise of Police Power

—and many others relating to questions of legal compensability.

I have often told appraisers that they should obtain a legal opinion or an order from the court covering difficult legal questions, before they complete their appraisals. Yet, I am forced to admit that this is a difficult, if not impossible, solution.

Many would agree with H. C. McKinney, M.A.I., who has said that the difference of opinion between lawyers far exceeds the divergencies between appraisers. Mr. McKinny points out the difficulty of attempting to get a commitment from an attorney after a trial and the virtual impossibility of getting a definite statement, even from your own lawyer, before the trial.[6]

In the absence of agreement upon proper legal interpretation, there is only one recourse left if the appraiser is to avoid disaster. He must carefully write out the legal assumptions on which the appraisal is based, and include these in his report. If the assumptions are later deemed invalid, he will just be told again that he is not a lawyer. He already knew this in the first place, and any disparity in the valuation because of the unsound legal basis will not reflect on his appraisal proficiency.

A much better solution, of course, would be for attorneys and appraisers to work harmoniously together at a pre-appraisal conference in much the same manner as some attorneys and appraisers are capable of doing at a pre-trial conference. Some outstanding attorneys and appraisers are able to function efficiently at both types of conferences, because they

each recognize their own capabilities and limitations. Neither would consider attempting to usurp the responsibilities of the other under any circumstances.

BASIC APPRAISAL THEORIES MUST BE IN AGREEMENT

In the appraisal of real property, we are often sailing an uncharted course. Yet, there are basic guidelines that are found to have repeated application to different appraisal problems through the years. Some of these are:

1. The Principle of Substitution
2. The Principle of Highest and Best Use
3. The Principle of Conformity
4. The Doctrine of Unity
5. The Before and After Concept
6. The Willing Buyer—Willing Seller Concept in Condemnation Cases.

There are many others. Theoretical explanations of these fundamental appraisal theories are well defined and effectively taught in the Case Study Courses conducted by the American Institute of Real Estate Appraisers. Disagreement regarding the correct application of these principles can lead to wide valuation differences very quickly. One appraiser may fancy himself a judge of equity and feel that "Anytime you take one square foot from a man's property you've got to pay him for that foot taken." The other appraiser may be willing to follow established principles and the laws of his state which demand that the just compensation estimate be based on the difference between the value of the whole property before the taking and the value of the remaining property after the taking. We see the violent disregard of this principle practiced daily, and we see the disastrous disparity that results.

The same type of limited thinking causes some appraisers to refuse to utilize the willing buyer-willing seller concept in condemnation appraising even though state laws may demand that they do so. Qualified appraisers know that they cannot include a "little something" extra because the condemnee is an unwilling seller. It is obvious that one of the first things a reviewing appraiser must do in resolving disparity between reports is to assume himself that the appraisers are in agreement on applicable basic appraisal theory.

Just a word of caution here: All the sound theory in all of the text books in America will not assure a sound appraisal. Appraising will always be as much an art as it is a science, and as such, cannot be learned from text books and teachers alone. Any one who desires to call himself an appraiser should be willing to serve his apprenticeship. The prevalent

practice of giving persons heavy value-decision responsibilities who do not have a proper background of appraisal experience will not only lead to disparity but is likely to lead even to scandal. Even a barber must cut hair under the supervision of others for a while before he is turned loose on the public.

FACTUAL APPRAISAL DATA MUST BE IN AGREEMENT

I once heard a very important man indulging himself in the popular sport of ridiculing the leading professional appraisal groups of this country. The most peculiar thing about his statement was that he accused the appraisers of collusion in the same breath that he denounced them for disparity. This man said that the members "got-together" and agreed on things, and would testify to values very close together. Then the same fellow fussed about how far apart the appraisers often were on certain occasions when they did not get together.

I believe that one answer to the disparity problem is for appraisers to agree on many things that are considered under the general classification of factual appraisal data. I realize that there are those who feel that appraisers should work in air-tight sound-proof cells, only one appraiser per compartment. There is a certain chief appraiser in another state who becomes very upset if he learns that his own staff appraisers exchange sales of record with each other.

On the other hand other appraisal agencies have already seen the desirability of a free exchange of factual appraisal data between all appraisers, both staff and fee. The Federal Housing Administration seems to be leading the field in this respect. Many local F.H.A. insuring offices make a monthly distribution to all appraisers who work for them of such kinds of factual data as:

1. Property Sales of Record
2. Unit Costs for Typical Building Components
3. Rent Multipliers
4. Neighborhood Ratings for Well Defined Areas

Staff employee-appraisers within a central organization hardly ever have the same disparity problem that exists between fee appraisers. The most constructive observation that can be deduced from this is that the free exchange of factual appraisal data among most institutional appraisers aids in producing consistency. On the other side of the coin is the very evident fact that over-concern about consistency within an agency will often cause undue influence to be applied to the staff appraiser destroying his independence of judgment.

An appraiser needs independence for many of the same reasons that an auditor needs it. It is not likely that staff appraisers can ever replace

the need for fee appraisal services anymore than internal auditors can replace the need for outside audit.

In Montgomery there is a multiple listing service among the brokers, handled through the local real estate board. I've never seen a more admirable example of collective effort without sacrifice of independence. Everybody knows that there is hardly anyone more independent than an independent broker. I do not see why appraisers are prevented from a statewide exchange of local factual appraisal data by means of similar arrangements of their own making.

ATTEMPTED AGREEMENT ON INFERENTIAL DATA?

The appraiser works with two kinds of data, from which he fashions his final value conclusion:

> Factual Data—We have discussed factual data. It is susceptible of proof, or is material of record, needing only collection and classification. It consists of such things as recorded sales and building cost figures.
>
> Inferential Data—is not susceptible of absolute proof, it is derived from the factual data by process of logical inference. It includes such things as overall capitalization rates for specific properties, adjusted comparable sales and highest and best use estimates of specific tracts derived from community studies.

The inferential data is much more difficult of agreement between appraisers. But a process could be set up which would permit attempted agreement on inferential data before rendering of final reports. This is necessary if we wish to really dispose of disparity. But we are skating on thin ice here, and I am not, by any means, suggesting any such thing as a joint appraisal report.

Some years ago, the American Institute of Real Estate Appraisers asked their parent organization NAREB,* to stop local real estate boards from the custom of issuing collective real estate board appraisals. This effort was quite successful. A joint certification of value is abhorrent for many reasons. It always represents a compromise of final judgment on someone's part, and should not be tolerated as good appraisal practice. By attempted agreement on inferential data I mean professional consultation between appraisers.

Lawyers do this. Engineers do it. Doctors do it. Why don't appraisers do more of it? There are probably two principal reasons:

1. Fear of undue influence on final value judgement.
2. Fear of violating the confidential relationship between appraiser and client.

*National Association of Real Estate Boards.

These are valid considerations that should always be respected.

Regulation 10.101 of the American Institute of Real Estate Boards, states in part:

> "It is unethical for an appraiser to reveal the findings and results of his appraisal to anyone other than his client until authorized by the client to do so . . ."

This confidential relationship must be preserved. But the appraiser also owes it to his client and to his profession to produce every scrap of value information obtainable in support of his final valuation.

THE FINAL VALUE ESTIMATE IS AN INDIVIDUAL RESPONSIBILITY

We sometimes hear appraisers criticized for being too technical or too impractical. When appraisers listen to this and decide they will take a "practical" approach, it usually means that we are headed for another case of wide disparity.

Taking a "practical" approach to market value usually means that the appraiser is going to worry about the lawyer's problems, or the jury's problems, or the negotiator's problems, or anybody else's problems, but his own. To me, this is not being practical.

The final value estimate is a personal and individual responsibility of the person who signs the report. At this particular time the dedicated technician is a very lonely man, unable to collaborate with any of his colleagues in the right of way operation.

I once heard two leaders in the appraisal field discussing how they felt at the moment of their final value estimate. One was a gifted young appraiser. He said that he was always exhilarated at such a time and that he wrote down the figure with no hesitation. He said that he always felt that he had explored every possibility. He was absolutely certain of his conclusion and that it was with utmost confidence that he wrote it down and forgot about it.

The other man was Earl K. Lostetter who has done a considerable amount of work for the New Mexico Highway Department. I am sure that some of you know him. He said that he was very humble when he made a final value decision. He said that he always did the best he could to obtain and weigh every scrap of information, but at the supreme and final moment, when he had to translate it into a value conclusion, that he went through agony and usually wondered about it for a long time afterward. I guess he realizes that only God knows the real answer and Earl always wonders how close he has come to it.

Well gentlemen, at this moment I am with Earl. I do not know how close I've come to the final answer of disparity, and I am very humble before the face of the problem.

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4. "What is Expected of an Appraiser in a Condemnation Trial" by Maurice Bishop. Address before Louisiana-Mississippi Chapter A.I.R.E.A.; Biloxi, Mississippi, 1959.
5. See Illinois Power & Light Co. vs. Talbot, 321 Ill. 538.
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HOW TITLE AND ABSTRACT COMPANIES CAN ASSIST IN THE RIGHT OF WAY ACQUISITION

CARL B. HALL, *Vice President*
Title Guarantee and Trust Co.
Birmingham, Alabama

This morning a deed conveying a parcel of real estate situated in Jefferson County, Alabama, was filed for record in the Office of the Judge of Probate in Birmingham. This deed will be recorded in Volume 6310 of the probate records. By law this deed is now notice to all the world of that particular real estate transaction. It is now one of over two and one half million instruments recorded in deed and mortgage volumes in Jefferson County. Also there are over one hundred thousand court proceedings relating to real estate. There are thousands of maps, incorporation records, judgments, tax liens, sewer liens, marriage records, divorces, adoptions, legitimations and other matters of record.

This is the record. This is the mass of information that must be searched in order to determine ownership of any parcel of land in Jefferson County. The only difference between the search in Jefferson County and the search in any other county in Alabama is the volume of the record. The methods and practices may vary between counties and between individuals. However, the same problems must be solved, the same difficulties met, and the same questions answered.

The search is my business and the business of my company. It is the business and the profession of a number of companies and individual abstracters and attorneys in the state of Alabama.

In the earlier years of the development of this state it was possible for almost anyone to go to the court house, and by checking the general index of deeds and mortgages, obtain a fairly accurate history of a parcel of land. This is no longer practical and rarely possible. Growth, progress, the passage of time and the complex development of metropolitan areas have made it necessary for abstracters and title companies to set up elaborate systems of index and cross index. These systems must be kept with almost painful accuracy. They become increasingly technical and intricate as the record grows in volume. The books of my company have been posted daily since 1901. Without these systems of search the public records would not be accessible to the public in the state of Alabama.

This then is what we have to offer. The search of the record and the information resulting from the search. We are very much interested in

determining the special and specific types of information that you need in the acquisition of rights of way, and to find the best way to make that information available to you. It is not my intention today to talk about the technical details of the title business. Nor is it my intention to tell you how to conduct your own business. However, I believe you will agree that in the matter of right of way acquisition a sharing of ideas and of problems between your business and mine should be profitable.

CHAINS OF TITLE

The most widely used form of title information for right of way purposes in Alabama is the chain of title. This is simply a list of all the matters of record pertaining to the particular parcel of land for a specified period of time. The chain gives the volume and page where the instrument is recorded; identifies the instrument as a deed, mortgage or whatever it might be; shows the execution date of the instrument; and sets out the names of the parties to the instrument. The chain of title may also include a report of judgments and tax liens against the present owner. The period of time covered may be specified, or it may be left to the discretion of the abstracter. The abstracter will then show enough of the record to show the apparent present owner and the outstanding encumbrances. The examining attorney must then examine the original record of the instruments shown on the chain.

The chain of title is at best incomplete title information. This is true for several reasons. The chain is made directly from the indexes of the title company or abstracter. The person preparing the chain does not read the instruments. Matters that appear in the instruments and do not appear on the index do not come to the attention of the abstracter. No search is made as to the satisfaction of mortgages. No search is made to determine the status of reversions, reservations and liens created by the terms of the instruments. No search is made to find proceedings in the administration of estates of deceased persons where those proceedings did not describe the property under examination. Because of the limitation of the period covered the chain does not show matters recorded prior to that period. Such matters may even include a title superior to the one shown by the chain of title. The search for judgments and tax liens is usually limited to the present owner.

These objections to the chain of title are the objections of a title man and perhaps arise from an occupational aversion to anything less than a complete search. For practical purposes the chain is perhaps sufficient in the large majority of cases. However, I believe you should be aware of these limitations when you purchase this kind of title information.

INFORMATION FOR PUBLIC UTILITIES

The chain of title, as I have discussed it, is usually used for purposes of public road rights of way. It is also used in much the same manner at times for the acquisition of public utility easements. A more frequently used form of title information for public utilities is a brief preliminary title report. This usually includes a reference to the last deed of record, indicating apparent present ownership. It may also include references to the latest mortgage, assessment and payment of ad valorem taxes, and a report as to judgments and tax liens against the present owner. This type report makes it possible for the agent to contact the apparent record owner with some assurance that he is dealing with the proper parties. This preliminary report does not reveal title defects and encumbrances that would be discovered by a more extensive search and report of the record. Also, the matter of descriptions is often a major difficulty. In many cases, such as easements for service lines and pole permits, no title information is obtained. The preliminary report can be varied to meet the needs of the user. It is inexpensive and can be obtained in a short time.

INFORMATION FOR APPRAISERS

In the matter of title information for appraisal purposes there is very little in the way of established procedure in Alabama. However, there is much information on record that is essential to the appraiser. The modern title company can furnish most of this information in the form of photostatic copies of recorded instruments. Photostatic copies of deeds show the recited consideration and the actual federal revenue stamps affixed to the deed. Photostatic copies of recorded maps of subdivisions in regular legal stationery size make information as to descriptions and the size of lots immediately available to the appraiser. The abstracter or title company can search out and furnish copies of deeds for all sales for any given period of years in any designated area or as to any specific parcel of land. These photostatic copies can then become a part of the appraiser's file or be attached in support of his report. The information required will probably be different in each case. If these requirements are explained to your abstracter or title company the search can be made by trained, skilled people and reported in accurate, concise and convenient form. If the report relates to a single parcel of land it may even include information relating to comparable properties designated by the appraiser.

DESCRIPTION OF RIGHTS OF WAY

The matter of descriptions is one of the most difficult problems in preparing title information for right of way acquisition. Perhaps it is

one of the most difficult problems in acquiring rights of way. If the right of way map is prepared before the title information is obtained, it is usually done from descriptions taken from the tax assessor's records. Unfortunately tax assessment descriptions do not always accurately reflect present ownership of lands. A parcel of land may be divided into several parcels and continue to be assessed as one tract for several years before the assessment is changed. Also assessment descriptions very often do not describe the land in detail. When the chains of title are made the abstracter usually describes each parcel by reference to a recorded deed conveying that parcel. It is not practical for the abstracter to write a description of the exact part of the land included in the right of way. The result is that the chains of title do not correspond to the parcels as shown on the right of way map. The engineer must then prepare another map and the descriptions for the right of way deeds must all be rewritten.

This situation can be avoided by obtaining the title information before the preparation of the right of way map. The title company or the abstracter can work from a center line map showing only the approximate location of the center line of the proposed right of way and the quarter-quarter section lines. It is also possible to sketch in the center line on a copy of the tax assessor's map. The abstracter can then prepare a chain of title on each parcel he finds in the width of the proposed right of way. For small additional expense a photostatic copy of the last deed of record conveying the parcel can be attached to the chain of title. The engineer then has the record description of the parcel, or a reference to it on the record, when he prepares the map. The examining attorney then works with a map and chains of title that agree as to description as much as possible. It is true that when the final location of the right of way lines is determined additional title work may be required as to parcels that were not included in the original search. It is also possible that this procedure may lengthen the period between the date of the title work and the date of acquisition. However, these disadvantages are more than compensated by the time saved in preparation of the right of way map and the increased efficiency of the entire acquisition procedure.

I could not appear here as a representative of the title business without urging you to give every consideration to the improvement of descriptions in whatever kind of real estate instrument you prepare. In the past errors in description were often ignored because everybody in the community recognized the owner and his claim of ownership. Descriptions were often written by well meaning people who professed to know how to "measure land and write deeds." This gave us descriptions like this; "begin at the foot log across Village Creek near Bill Smith's spring house and run far enough to take in the mule lot, but not far enough to take in the well; thence run down the ditch to a sassafras bush near a sweet gum tree; thence run to a stone in the edge of the creek; thence run up the creek to the point of beginning." There are descriptions of record that begin "at a tree where a blue bird sings"; "the place in the road where

Mr. Kelley's horse broke his leg"; "at Mr. Jones' yard gate." These descriptions continue to plague us to this day. An old colored man once explained to me how his family divided his father's land after the old man died. He draw a diagram on my desk with his dirty thumb and said, "we pace it off and vide it up and then we say, dis is mine, dat is youn, start plowing."

Erroneous descriptions in the acquisition of rights of way and easements often encumber the title to lands never intended to be affected. Title companies spend much time and money attempting to index instruments containing such descriptions. Examining attorneys find abstracts filled with such matters. It seems to me that emphasis on accuracy in describing the property affected in any instrument is in the best interest of the agency acquiring the easement, the property owner, the title man and the general public. Title companies and abstracters will always welcome an opportunity to discuss with you adequate record information to aid in the preparation of descriptions.

COSTS OF TITLE INFORMATION

In a talk before this conference last year Richard Taylor, chairman of the National Liaison Committee of the American Right of Way Association, mentioned efforts of that committee regarding mounting costs of title information. I do not believe that this is a problem in Alabama. Title work in this state represents a very small fraction of the costs of right of way acquisition. This nominal expense for title work may not continue to be the rule in the future. The record will grow. The complex development of metropolitan areas and the increased pace of construction will require more complete title work and in ever increasing volume. Title companies will be asked to give right of way work immediate attention and it will be necessary to employ additional highly skilled personnel. All this will of course result in greater expense.

These are some of the practical applications of information from the records of the office of the judge of probate. Let me remind you that the record has another importance. It tells the story of a community and its people. It tells of progress and stagnation, of success and failure, or hope and despair. It reveals the honest man and the crook, the wise man and the fool. The record will tell a story of what kind of roads you build. It will tell how well you serve your customers. It will tell how well title men perform their tasks.

As we study the rapidly changing record today we can almost sense the enormous undertakings of the future. The record of the past tells us that we must prepare to meet new requirements and the challenge of new problems.

By tradition title companies and abstracters stand in a unique position of public responsibility. We are keenly aware of that responsibility.

As the American Right of Way Association considers the problems of right of way acquisition we want to contribute whatever we can to the solution. If your agency or your business requires title information discuss it with your local title man. He will be interested in your problem and anxious to devise the best means of supplying the needed information. We in the title business share the desire expressed in the first paragraph of the Code of Ethics of the Right of Way Association "to show faith in the worthiness of our profession by industry, honesty and courtesy, in order to merit a reputation for high quality of service and fair dealing."

VALUATION—TRENDS OF RECENT DECISIONS IN EMINENT DOMAIN

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It is a genuine pleasure for me to be with you today and to participate in this Annual Right of Way Conference. The Bureau of Public Roads is convinced that meetings of this type are of great value to the public land acquisition program, and I personally hope that you will continue to hold such meetings.

Those of you who know Clif Enfield and have heard him speak can probably appreciate my feeling of inadequacy at being called on to substitute for him. Clif wanted very much to attend your conference this year and I assure you that only urgent business could have made him change his plans. At any rate, may I extend his sincere regrets and his best wishes to all of you.

You are all familiar with the expanded National Highway Program launched by the Federal-Aid Highway Act of 1956. Many of you are engaged directly in this activity, and all of you are affected by it. The vital interest of Public Roads in the acquisition of right-of-way for this program is best illustrated by its magnitude. It is estimated that for the Interstate System alone, 730,000 parcels of land are required, totaling 1.5 million acres at a cost of $5.3 billion.

Being mindful of the usual effect of lengthy statistic-ridden after-luncheon talks, I will eliminate any further statistics or comments on the size and importance of the highway program and will proceed to our subject, the legal rules governing valuation of real property acquired for public purposes and trends of recent court decisions.

The vast increase in land acquisition for highway rights-of-way and for other public purposes, has produced a corresponding increase in litigation involving the measurement of compensation to be paid for property taken and damages to remaining property.

It is true that most states, like Alabama, acquire by far the greater amount of property needed for public use through negotiation, rather than through condemnation proceedings. This does not mean, however, that the judicial rules governing valuation need be followed only in those cases in which litigation has been commenced or appears inevitable. Uniform standards must be followed in arriving at value, so that all

persons whose properties are acquired for public use receive fair and equal treatment and are fully compensated for the takings, while at the same time assuring that overpayments are not made in derogation of the interests of the public.

It is well for us, therefore, to review the general rules of law governing valuation in eminent domain, especially as they are enunciated in recent court decisions, so that we have an accurate understanding of the "do's and don'ts," and equally important, the reasons for the "do's and don'ts." Some of these rules are often complicated, sometimes conflicting, and occasionally poorly expressed. However, let us see if some established and accepted fundamentals can be found upon which to base our thinking, both from legal and appraisal viewpoints, in our day-to-day valuation of real property for public use.

I do not profess to be an expert on any subject, and certainly not on Alabama law. My purpose is simply to highlight basic principles.

Only a few general rules apply to valuation in condemnation proceedings, and even these may yield to exceptional circumstances. Just compensation is determined by equitable principles, and its measure obviously varies with the facts. Compensation must be just, not only to the individual whose property is taken but to the public which is to pay for it.

MARKET-VALUE MEASURE OF JUST COMPENSATION

The compensation to which an owner is entitled is the full equivalent of the property taken and, in general, the damages inflicted by the taking for the purpose taken—which means, in substance, that the owner should be put in as good a position *dollarwise* as he would have been had his property not been taken. This is accomplished by measuring the loss of or injury to the real property in terms of market value, rather than in terms of any special loss to the owner or benefit to the public.

Market value has been defined by different courts in varying language, but the substance of all definitions is that market value is the cash price which would be agreed upon at a voluntary sale between an owner willing but not obligated to sell and a purchaser willing but not obligated to buy, taking into consideration all of the uses to which the property is adapted and might be put, and the demand for such use in the reasonably immediate future.

The concept of market value applies not only to the determination of the value of the real property actually taken, but also to the measurement of damages. Thus, in addition to the value of the real property taken, an owner is entitled to compensation for the depreciation in the market value of his remaining real property resulting from the elimination of the parcel taken, plus any additional diminution in the value of his

remaining real property that will result directly from the use to be made of the parcel taken.

It is generally considered, however, that an owner is not entitled to compensation for any damages to his remaining real property resulting from the use of real property acquired from others for the same project or from the completed project as a whole.

This point is illustrated by a decision of the Supreme Court of Michigan in 1949. (*In re Zeigler,* 326 Mich. 183, 40 N.W.21 11).

The state was acquiring a one-acre parcel of land in the northwest corner of a farm abutting the east side of an existing highway. The land taken had been partially flooded and was intended as a disposal site for surplus muck. It was planned to drain the surface water and level the muck when the project was completed.

The owner's home was in the southwest corner of the farm. Immediately to the south, the state had acquired a strip of land from an adjacent owner to permit widening of the existing highway. As a result, the farmhouse was located on a projecting strip of land surrounded on three sides by state-owned property.

The evidence disclosed that taking of the one-acre tract had only a nominal affect upon the value of the entire ownership, and that the award of substantial damages was based on the depreciation in value of the residence resulting from the taking to the south from a different owner.

The Supreme Court held that just compensation does not include any diminution in the value of the remainder caused by the acquisition of adjoining lands from a different owner, even though acquired for the same undertaking.

Also, in a Federal Court of Appeals case in 1935 (*Boyd vs. United States,* 222 F.21 493, 8th Cir.), it was held that where 15 acres of an 82-acre farm were condemned for the northern tip of a 5000-acre air base, the landowner had no right to recover for any decrease in the value of the remainder of his real property merely because it would adjoin an air base generally. The court stated that the result might be different if the intended use of the part taken would itself cause a depreciating injury to the remainder of the ownership, such as might result from the storage of large quantities of gasoline or ammunition on the part taken, in close proximity to the remainder of the owner's property.

These cases illustrate both the Federal rule and the majority rule in jurisdictions that have constitutional provisions similar to that governing state acquisitions in Alabama, which require payment only for the taking of property as distinguished from the damaging of property without a taking. However, the Alabama court decisions indicate a departure from the general rule by permitting consideration of all damages resulting from the overall project for which the real property is taken, rather than limiting the compensable damages to those resulting from the taking and use of the owner's property, only.

The Supreme Court of Alabama last year held that a jury in assessing compensation was entitled to consider the fact that upon construction of a new highway one of two roads running through the owner's remaining real property would be closed and would render the remainder less accessible.

The court said that the jury should consider any factor or circumstance which would depreciate the value of the remainder in any way, including the effect that the completed project, for which the land was condemned, might produce on the remaining tract. (*Blount County vs. Campbell,* 268 Ala. 548, 109 So.2d 678 (1959); *McRea vs Marion County,* 222 Ala. 511, 133 So. 278, 281 (1931).

It is interesting to speculate as to what the Alabama courts would do with factual situations similar to those in the Federal and Michigan cases. My own impression is, assuming that actual damage could be proven, the Supreme Court of Alabama would decide contrary to the Michigan Supreme Court and the Federal Circuit Court and would allow all damages flowing from the completed project.

Damages to private property in eminent domain are, when assessed, assessed once and for all, and include all damages sustained, both present and future, by reason of the proper construction, use, and maintenance of the public improvement.

Ordinarily, damages are based upon all *reasonable* use that the public can make of the property for the purpose for which taken, irrespective of any limited use or construction that may presently be planned, unless the acquiring agency actually binds itself to a specified plan of construction, as where a condemnor introduces evidence of the construction plans. This principle was reaffirmed by a 1959 decision of the Supreme Court of Kansas. (*Hoy* vs. *Kansas Turnpike Authority,* 184 Kan. 70, 334 P.2d 315, (1959).

BEFORE-AND-AFTER APPRAISALS IN PARTIAL TAKINGS

Courts may differ in the language employed in decisions to describe the measure of damages, and the method of proof of damages may vary from a procedural standpoint. But it is generally accepted by both the legal and appraisal professions that the proper measure of value of real property taken, plus the damages to an owner's remaining real property, is the difference between the market value of the entire tract before the taking and the market value of the owner's remaining real property after the taking, both determined as of the same time.

In most jurisdictions, the before-and-after rule is subject to the important qualification that the after-valuation must eliminate consideration of certain damages or benefits that are not allowable under the law, even though they may in fact be reflected in the ultimate value of the remaining property on the open market. However, Alabama seems to follow the before-and-after rule without limitation.

PERSONAL PROPERTY OR FIXTURES

One of the most difficult problems in the appraisal of real property for public acquisition is the determination of what improvements upon the property must be included in the appraisal. When a public agency acquires real property on which personal property is located, the great weight of authority holds that the owner retains title to the personal property and has the duty to remove it from the land at his own expense.

However, items of personal property which are transformed into fixtures are treated as realty, rather than personalty. These often include such things as furnaces, water heaters, light fixtures, counter top stoves, wall ovens, certain built-in equipment, and, sometimes, machinery. In determining if specific items are fixtures, and must therefore be taken as a part of the realty and paid for, the courts generally consider three criteria: first, the manner of annexation of the item to the realty, either actual or constructive; second, adaptation of the item to the use of the realty to which it is connected; and, third, the intention of the annexor, at the time of annexation, to make the article a permanent part of the real property. The intention of the party making the annexation is the most important and ultimate element. The first two factors are merely indicative of such intent.

In most states, there is no absolute requirement that a chattel be actually and physically affixed before it becomes a fixture. It is generally held that chattels become fixtures where their removal would cause substantial injury or damage to the building, or to the chattel, because of the manner of their attachment. Such damage by removal, of course, tends to evidence the intent to make the chattel a permanent part of the realty. However, some courts go further and consider that the question of injury or damage to the building or chattel may be relatively unimportant, and that because of the association of the chattel with the use of the real property it may be regarded as constructively annexed to and made a part of the real property.

The Supreme Court of Alabama had occasion to consider this question of annexation to the realty, in dealing with the installation of an air conditioning system in a store building. The court stated "whatever is attached to the realty, *though but slightly,* is prima facie a part thereof." (*Silverman* vs. *Mazer Lumber & Supply Co., Inc.,* 252 Ala. 657, 42 So. 2d 452 (1949).

In older cases, the Supreme Court of Alabama has stressed factors such as an item being immobile, stationary, and in constant use in a fixed location, thereby making it a part of the realty. (*Langston* vs. *State,* 96 Ala. 44, 11 So. 335 (1892).) On the other hand, the court has also held that mere weight is not sufficient to make a chattel a part of the realty, although resting on a surface prepared for it; that merely enclosing a chattel in a building in which an opening must be made before the chattel can be removed, or enclosing an article, such as a safe, in brick or iron,

does not necessarily amount to annexation that will change a chattel into realty. (*Parker vs. Blount County,* 148 Ala. 275, 41 So. 923 (1906).)

In my cursory review of Alabama law, I have not found any decisions holding that chattels have become fixtures without some physical connection. And yet, the Alabama courts have often cited with approval the general rule that annexation to the realty may be either actual or constructive. This point bears watching.

Let me caution you, also, that mere suitability of a chattel for use in connection with the real estate is usually not sufficient, alone, to make such a chattel a fixture. If suitability alone were the test, it could lead to such ridiculous conclusions as domestic animals being considered fixtures on agricultural properties.

Rather, the elements generally considered in evaluating the adaptation or appropriation of a chattel to the use of realty consist of: (1) lack of adaptability for use elsewhere, (2) consequent loss of value if the chattel is removed, (3) need for the chattel in order to accomplish the purpose to which the realty is devoted, and (4) permanency of the appropriation of a chattel to the use to which the realty is put.

We should note the distinction between fixtures and trade fixtures. A lessee ordinarily does not intend that articles be placed on leased premises, to advance the business for which the realty is leased, should become a permanent part of the realty. As between a lessor and lessee, these chattels, known as trade fixtures, are considered to be personal property; but as between the lessee and a condemnor, these same chattels are in many states treated as fixtures and a part of the realty for which payment must be made. (*U.S.* vs. *Seagren,* 50 F.2d 333, D.C. Cir. 1931; 75 A.L.R. 1495 (1931).)

The problem of determining what are fixtures becomes particularly acute in appraising industrial and commercial properties. The utilization of such properties often includes small machines and portable equipment which can be removed from the premises without any physical injury to the real property or to the machines and equipment. While many jurisdictions treat all such property as personalty—and I would imagine this includes Alabama—there is a tendency on the part of some courts to consider such items as parts of the realty and to require their taking, and payment therefore, in eminent domain.

This is the approach taken by the Supreme Court of Oregon in 1955 in a case which involved the condemnation of a parcel of land improved with a building used for furniture and mattress manufacturing. The court concurred in the defendant's position that machinery and equipment, including many items which were portable and others which could be removed easily without damage to the realty, had been installed as necessary parts of the manufacturing operation, and had therefore lost their identity as personal property. Included in the items held to be realty were such things as woodworking band saws, bench saws, drill presses, jointers, and shapers of a type often found in home basement-workshops, sewing

machines mounted on their own tables and not attached to the floor, and removable motors. (*State Highway Commission* vs. *Superbilt Manufacturing Company,* 204 Ore. 393, 281 P. 2d 707 (1955).)

Problems occasionally arise as to the effect of an owner's voluntary removal of items otherwise considered to be fixtures. In the Oregon case, the court indicated that upon severance these items again become personal property and that they need not be taken as a part of the realty and no compensation need be paid for them. While I have found no Alabama cases on the precise point, it would seem probable that your state would take a similar approach.

Of course, where the owner is willing to retain ownership of items considered to be fixtures and they can be removed and reinstalled elsewhere at less than the *net* cost to the state if treated as part of the realty, there is ordinarily no reason why a settlement with an owner should not include an agreement for their removal by the owner at state cost.

COMPENSABLE AND NONCOMPENSABLE DAMAGES

Now let us consider briefly the field of compensable and noncompensable damages. It is elementary that the injury to the remaining real property, to be compensable, must be sufficiently definite to be of practical importance, and must depreciate the market value of the remaining property. If the anticipated injury is remote and speculative, it cannot be considered.

You are all familiar with the types of damages that generally have been held by courts to be compensable in eminent domain, such as:

1. Cutting up the remaining land into parcels of such size or shape as to decrease its utilization and value.
2. Construction of deep cuts or embankments, or severance of parcels by an access-controlled highway which may render the remaining land less convenient to use.
3. The taking or impairment of rights of access to existing highways.
4. Injury to water supply.
5. Pollution of waters flowing upon remaining real property.
6. Change in the highest and best use of the remaining real property.
7. Impairment of irrigation or drainage.
8. Necessary fencing.
9. Obstruction of view.
10. Decrease in value or need for restoration of improvements resulting from taking a part of the improvements, or because of the proximity of the highway to the improvements; and
11. Other direct injury resulting to the remainder by reason of the situation in which it is left by the taking and which produces a depreciation in its market value.

Of course, losses suffered by the owner that are not reflected in a depreciation in the value of his remaining real property are generally not compensable, such as:

1. Frustration of his plans to develop, improve, or utilize his remaining property.
2. Loss of business.
3. Loss of goodwill.
4. Loss of anticipated profits.
5. Inability to locate an acceptable substitute location; and
6. Expense of moving personal property.

As to the last item, the great weight of authority is that the cost of moving personal property is not a compensable damage in eminent domain. A few states, however, have required payment for such costs, either under court decisions interpreting constitutional provisions or under applicable statutes. On this point, Alabama goes along with the majority and does not require the condemnor to pay for moving of personal property.

A 1957 Utah case, involving the condemnation of real property devoted in part to a sand and gravel business, is an interesting commentary on valuation based on anticipated business profits. At the trial, all valuation witnesses, both for the owners and the state, appraised the value of the land by multiplying the estimated total tons of sand and gravel on the premises by the price per ton in place. The Supreme Court of Utah held that this was not a proper method of fixing the fair market value and pointed out that, with great unanimity, courts have rejected the proposition that just compensation is the equivalent of the total profits which could be realized from the future operations of the property, even when the highest and best use necessitated the wasting of assets. It observed that the measure of damages is the market value of the property, not its output. The accepted method of determining market value is not how much the property would produce over a period of years, but what a willing purchaser would pay for it as a whole, in its present state and on today's market. (*State vs. Noble,* 6 Utah 2d 40, 305 P. 2d 495).

In a 1958 Alabama decision, the Supreme Court held that a sand deposit may add value to the property taken, and its loss was a circumstance which properly should be considered in assessing the value of the tract before and after the completion of the highway project; also that it was proper for the landowner to testify that the sand was suitable for and was used in road-construction work. (*Blount County vs. McPherson,* 268 Ala. 133, 105 So. 2d 117).

While discussing before-and-after appraisals, we observed that there are instances when the owner's remaining property may, in fact, suffer a depreciation in market value for which compensation is not generally allowable under the law. Under the law of most states, such noncompen-

sable damage may result from action taken by highway authorities which is not attributable, as such, to the taking of a part of the owner's property, such as:

1. Re-routing or diversion of traffic;
2. Establishment of one-way roads;
3. Construction of traffic dividers;
4. Circuity of travel; and
5. Other activities of the state in the exercise of its police power to regulate traffic in the interest of the public health, welfare, and safety.

In this type of situation, we find again some startling differences between Alabama and many other jurisdictions.

I mentioned before the 1959 decision of the Supreme Court of Alabama (*Blount County vs. Campbell,* 268 Ala. 548, 109 So. 2d 678), which held that a jury, in assessing compensation for the taking of right-of-way, was entitled to consider the fact that construction of a new controlled-access highway would cut off one of two local roads running through the remainder tract and would require the owner to travel three and a half miles more to reach town. In effect, the court approved compensation based not on the specific taking of land from an owner, but on the effect of the entire project, including damages caused by circuity of travel.

The matter of damages resulting from diversion or re-routing of traffic is receiving increased attention of late by the courts. In a typical case, a landowner's business, such as a motel or service station, abuts an existing highway, and the state, in connection with the construction of a new highway, acquires a small portion of land from the rear of the ownership without in any way interfering with the continued operation of the business. Oftentimes the landowner will contend that although the taking of the strip of land does not of itself have any substantial affect upon the value of the remaining real property, the diversion of traffic to the new highway, for which a part of his property is taken, will result in a substantial loss in value of the remainder, maybe, even, resulting in a less valuable highest and best use.

The vast majority of courts have held that damages of this nature, however real in fact, are not compensable.

In a 1958 Florida decision, adopting the majority rule, the court noted that the state owes no duty to any person to continue public traffic past his door. (*Jehoda vs. State Road Department,* 106 So. 2d 870).

On the other hand, the Supreme Court of Kansas took the opposite approach last year, in a divided opinion, and held that diversion of traffic was a circumstance of which the jury should be informed. (*Ridfdle vs. State Highway Commission of Kansas,* 339 P. 2d 301).

This minority view has also been adopted in Alabama, apparently on the theory that the application of the "before-and-after" rule requires that all elements of damage resulting from the completed project, includ-

ing diversion of traffic, be considered. (*Pike County vs. Whittington,* 263 Ala. 47, 81 So. 2d 288 (1959).)

The minority view places such a landowner in a position of distinct advantage over his neighbor, who may have no land taken but suffers loss of value to his real property by re-routing of traffic.

Just last week, I learned of an opinion rendered by the United States Court of Appeals for the 9th Circuit, in connection with a Federal condemnation proceeding instituted to acquire right-of-way for an Interstate project to Idaho. The case involved both the diversion of traffic and circuity of travel. The Court of Appeals affirmed the majority view that neither diversion of traffic nor circuity of travel are compensable. (*Winn vs. United States,* 9th Cir. No. 16340, Nov. 2, 1959).

I understand that a case is now being appealed to the Supreme Court of Alabama in an effort to obtain a modification of previous decisions on this question.

ASCERTAINING THE REMAINDER

It is not always easy to determine what constitutes the remaining real property for the damaging of which the owner is entitled to compensation. Where part of a single tract is taken for public use, there is usually no problem. However, when more than one tract remains, complexities frequently arise. The courts have generally adopted three tests for determining what constitutes the remainder for which damages may be allowed, and all three of these tests must be satisfied. They are: unity of title, unity of use, and the requirement that the taking of a part of the owner's real property, for the purposes taken, must necessarily damage the remaining real property. The first two tests can be troublesome at times, and warrant a bit of explanation.

The test of *unity of title* is based upon the concept that damages must relate to the remaining property of the owner from whom a parcel is taken, and not to property of another person. In giving effect to this concept, the courts have generally held that for a parcel of real property to be considered a part of the remainder, it must be held by the owner under the same quality of ownership as the parcel acquired for public use. In applying the test of unity of title, it is not necessary that all of the property be acquired by the owner in the same transaction or at the same time; nor is it necessary that the remaining tracts be contiguous to the parcel taken, or to each other. It is generally required, however, that there be identical ownership of all of the property involved. Thus, the owner cannot recover for damages to contiguous property of another because of the taking of property that he owns. This is generally true even though the two tracts are used together as one, and even where the contiguous property is owned by the owner and his wife as tenants by the entirety. (*Tillman vs. Lewisburg & N.R. Co.,* 133 Tenn. 554, 187 S.W. 597 (1916).)

The second test, *unity of use,* requires that for other land to be considered as a part of the remaining real property, it must be devoted to the same use as the parcel taken. For example, an interesting California case involved a large tract of land used for agricultural purposes, except for a parcel which the owner leased to another for a service station. The city appropriated a strip of land through the farm. The taking did not include any part of the service station property but passed within 200 feet of it. The court held the service station property to be separate from the agricultural tract, since the two were not devoted to the same use. (*City of Stockton vs. Marengo,* 137 Cal. App. 760, 31 P.2d 467, 1934).

As I noted earlier, any loss of value to the gas station property, resulting from diversion of traffic, would be noncompensable in most states, but not Alabama. Quare: Does the Alabama court reject the principle of unity of use? If not, can it reconcile payment of damages for diversion of traffic where the land taken is devoted to a use differing from that of the real property damaged.

Beware of the term "unity of use." It means that the parcels must be used in connection with each other; and mere devotion to the same use will not serve to fuse the two. Thus a group of lots, each of which is improved with a single-family residence, and all of which are in common ownership and used as rental units, would not be considered as one tract, even though the single landlord could be said to be devoting them to the same and single use.

The question sometimes arises as to whether unity of use must be presently operative, or whether adaptability for future unity of use will suffice. Where unity of use is presently in operation, the test is, of course, satisfied. However, some courts have also held, and this is most important, that irrespective of the present use, the adaptability of lands for future singleness of use may be sufficient to support including them in a remainder.

There was an interesting decision on this point in Pennsylvania last year. The court indicated that the unity-of-use test should not be applied where contiguous properties are involved. (*In re Elgart's Appeal,* 395 Pa. 343, 149 Atl. 2d 641 (1959).)

In this case, two abutting parcels of land in the City of Philadelphia were in common ownership. The city condemned the corner parcel, and the owner sought to introduce evidence of damages to the remaining parcel. The trial court held that the owner did not establish a unity of use between the properties and was not entitled to recover severance damages. The Supreme Court, in reversing the judgment, pointed out that the owner had obtained the passage of a zoning ordinance which increased the building area from 50 to 90 percent, and that the resulting increment in value, and the effect of the taking on such value, should have been admitted by the trial court.

The decision of the Supreme Court on the question of admitting evidence seems entirely proper. However, the broad ruling that the unity-

of-use doctrine is not applicable to contiguous properties, per se, is to me somewhat questionable. Since courts have held that irrespective of present use, the adaptability of lands for future singleness of use may be sufficient to support including them in the remainder, the evidence of increased plottage value, if admitted in the Pennsylvania case, would probably have permitted a consideration of both parcels as one property within the unity-of-use concept.

BENEFITS

Thus far we have been talking about elements of damage to be considered in making a payment to a landowner whose property is taken for public use. However, it is equally important that public authorities recognize the concept of "benefits," whereby much-needed highways and other public-works projects may be built with greater economy to the public.

You are all familiar with the general principle in most states that when public authority takes private property and is required to pay compensation therefor, it may show that the remaining property of the owner will be benefited as a result of the proposed project for which the taking is necessary. To the extent that these benefits influence the remaining property's market value, the public authority may be able to set off the amount of the benefits. Under the law of some states, this setoff may be applied only to severance damages otherwise accruing to the ownership, thus insuring that an owner receives, as a minimum, the value of the real property actually taken.

However, application of the before-and-after rule in Alabama permits benefits to be set off both against the value of the real property taken and severance damages. (*Morgan County vs. Hill,* 257 Ala. 658, 60 So.2 838 (1952).) So it would be possible for the state to acquire a parcel of right-of-way without making any payment.

Benefits should not be allowed to waste away by default. The appraiser must make full use of this concept, to the extent permitted by law, if his valuation estimate is to reflect fully the effect of a project on an ownership.

There is great diversity of opinion as to the rules governing the allowance or disallowance of benefits, and as to the distinction in treatment between so-called special and general benefits. But the general rationale used by most courts is that general benefits may *not* be set off; whereas, special benefits *may* be set off. The fundamental difference between general and special benefits, as we think of them, is that those benefits are special which will add anything to the convenience, accessibility, and use of one's property, as distinguished from benefits arising incidentally out of the improvement, and enjoyed by the public generally.

There are those who feel that because an improvement may benefit

all properties adjacent thereto, the benefits must therfore be general in nature. This is not so. The courts have long recognized that owners of lands abutting a highway may derive advantages not shared by others in the community; and a number of courts have held that to the extent that such benefits increase the market value of the remaining lands, they are special.

In Alabama, your courts have not concerned themselves with the technical, and perhaps fictional distinctions which have developed in many states over the years, as between general and special benefits, but look rather to the basic question whether there have been real and substantial benefits which are reflected in the market. (*McRae vs. Marion County*, 222 Ala. 511, 133 So. 278, 281 (1931); *Morgan County vs. Hill* 257 Ala. 658, 60 So.2 838 (1952).)

To sum up, the majority of courts, including Alabama, are in agreement that, in determining benefits which may be offset, consideration is to be given to those benefits which are, or will be, the proximate, direct, or immediate result of the improvements being constructed, and which will accrue to the particular tract of land from which a portion is being taken. The benefits must not only be shown to be proximate, but must also be shown to be reasonably probable. Examples of such benefits are (1) improved drainage, (2) diking protection, (3) more accessibility, (4) changing an inside lot to a corner lot, (5) eliminating view obstructions, (6) eliminating slide and flood hazards, (7) improving the highest and best use, and (8) construction and maintenance of fences, stock passes, sidewalks, and other construction items.

CONCLUSION

It has been my purpose today to review with you the fundamental legal principles that apply to the determination and measurement of just compensation in eminent domain and to note the direction taken by some courts in recent decisions.

We have seen that just compensation is determined by equitable principles, and that it must be just not only to the individual whose property is taken, but also to the public which is to pay for it.

We have seen a tendency by some courts to extend their interpretation of real property to include and to require payment for items which we would normally consider to be personal property.

We have observed that severance damages are limited to injury to an owner's remaining real property, as distinguished from any loss relating to his personal property and any loss suffered by him as an individual. We have noted also that, in most states, such damages must arise only from the taking of a part of the owner's property and the use that is made of the particular parcel taken, and may *not* include diminution in value arising from traffic regulations, or from the public improvement generally, or

from construction on property acquired from others. We have seen some differences in thinking in Alabama, as to these considerations.

We have emphasized the importance of giving full recognition to the concept of benefits.

We have concluded that the measure of compensation to an owner is the difference between the market value of the entire tract before the taking and the market value of the remainder after the taking.

In closing, may I add a word of caution. The law on valuation in eminent domain, and more often the application of the law to a given set of facts, can be quite complex, and the court decisions are sometimes difficult to reconcile. Therefore, I cannot emphasize too strongly the need for close coordination and cooperation among members of the appraisal and legal professions, and all other persons engaged in activities relating to acquisition of real property for public purposes.

An appraiser can always condition his opinions of value upon advice of competent counsel with respect to the law and its application to the particular appraisal problem. But he can never justify an erroneous opinion of value based upon his own misconception of the applicable law.

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CONDEMNATION OF MINERAL RIGHTS

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It is my main purpose in this discussion to present for your consideration some of the problems which arise in connection with the condemnation of minerals or mineral lands. We might first consider what is meant by the term "minerals." The absolute and unconditional ownership of land is referred to as "fee ownership." All of the rights and interests of the owner are wrapped up in what has been called a bundle of rights. He can and often does grant off certain of these rights retaining others to himself. He may grant hunting rights, timber rights, grazing rights, turpentine rights, mineral rights, roadways and many other rights and interests. He may convey off the minerals and when he does, his surface ownership is separated from the mineral ownership and two separate and distinct estates are created in the same land.

The courts have had some difficulty in defining the term "minerals," and in deciding what the owner parted with under a conveyance using that term alone. An early Michigan case[1] held that a general conveyance of minerals did not include marble since, at the time of the conveyance, iron was the only valuable mineral found in that region and the parties could not have intended a conveyance of marble. The Alabama Supreme Court criticized this Michigan case and, in holding that shale was included within the term "minerals," stated: "By the term minerals are meant all the substances in the earth's crust which are sought for, and removed by man, for the substance itself. It is not limited to metallic substances, but includes salt, coal, clay, stone of various sorts, etc., and even petroleum and natural gas have been held to be minerals."[2]

In condemnation proceedings involving lands containing valuable minerals, problems are presented for the mineral owner or mining company, and the public is also concerned over what it will cost to acquire rights of way through such properties. These problems will become increasingly important with the expansion of the federal and state road programs now under way. Because of the large amount of land required in building these new highways, rights-of-way acquisition costs are an important factor and where mineral lands are involved, these costs, under-

1. *Deerlake Company* vs. *Michigan Land & Iron Company, Ltd.* (Michigan, 1901) 5 N.W. 807.
2. *McCombs* vs. *Stephenson,* 154 Ala. 109, 44 So. 867.

standably, are greater, depending of course upon the extent to which minerals are taken or their removal interfered with.

In this state, and generally, when a right of way is acquired for road purposes, the public acquires only an easement or right to use the surface of the land to the extent reasonably necessary for such purposes. The owner of the land retains all other rights. The minerals are not usually acquired, but the mineral owner's rights and his mining operations may be seriously affected, and when they are so affected, compensation is due and often the damages are substantial.

Where the minerals are underground and the mineral owner has no rights to the surface, it follows that in condemnation proceedings involving only a surface easement the mineral owner need not be made a party since his mineral rights are not affected in any way. Where minerals in the land condemned are such as to be of no commercial value, there is no basis for the awarding of any compensation on account of the minerals.

In the case of Alabama Power Company vs. Keystone Lime Corporation[3] the Power Company condemned a right of way over certain lands for a power line. The Keystone Company owned all interests in the property. The court held that since the easement affected only the surface and did not involve the minerals, the value of the minerals could not be considered in awarding compensation. The Keystone Company was engaged in the quarrying of limestone and most of the opinion was devoted to a discussion of the effect the high powered electric lines would have upon the value of the property. There was little discussion concerning the minerals, and, as pointed out, the court held that the minerals were not affected. On that basis the decision is sound, but if it were proven that the power line easement affected the removal of valuable limestone from the property, which would certainly be the case if the limestone had to be removed by quarrying methods, then the company would be entitled to compensation for the limestone which could not be removed.

Where an easement for a right of way is taken over lands containing valuable minerals which lie either on the surface or so close to the surface that the removal of same might affect the surface, the owner is entitled to compensation not only for the land actually taken but also for the minerals which must be left to support the surface and which cannot be removed on account of the surface easement. In Nichol's *On Eminent Domain,* Third Edition, Section 13.22 (1), we find the following statement: ". . . . . While the title to the minerals underneath the right of way is reserved exclusively to the owner of the land across which the right of way is condemned, there is no doubt that by being restricted from entering upon such right of way it may be much more difficult and expensive for him to extract such minerals. It might also be that much valuable minerals would have to be left to afford adequate surface support, or if this were taken out, a substituted surface support would have to be pro-

3. 191 Ala. 59, 67 So. 833.

vided by the owner. Evidence of all these matters are substantial factors in determining the value of the easement acquired by the condemnation."[4]

In many instances, the mineral owner has acquired from the surface owner, or has reserved at the time of severance, a release from any damages which may be occasioned to the surface by mining operations. In such a case, the public in acquiring the right of way easement is bound by such release, and if surface support is to be acquired for the road, the mineral owner must be made a party to the condemnation proceedings and must be paid for the minerals to be left in place in giving surface support.[5]

In case of Pennsylvania Coal Company vs. Mahon, previously cited, the Supreme Court of the United States said: "The rights of the public in a street purchased or laid out by eminent domain are those that it has paid for. If in any case its representatives have been so short-sighted as to acquire only surface rights without the right of support, we see no more authority for supplying the latter without compensation than there was for taking the right of way in the first place, and refusing to pay for it because the public wanted it very much."

There have been many cases dealing with the question of whether or not in condemnation proceedings the condemning authority has acquired the fee simple title in the property or only an easement. This question sometimes becomes important years later when oil or some other valuable mineral is discovered on the property condemned. Where fee simple title is acquired through condemnation proceedings, it carries with it title to all minerals, which, of course, includes gas and oil. In case of doubt, however, as to what title was taken, the courts have generally held that only an easement was acquired if an easement would meet the public need. The following is stated in 36 A.L.R. 2d at page 1425: ". . . . since the idea foundational to eminent domain is that the taking must be justified by necessity, the clear inclination of the courts, in all cases of doubt, has been to construe the taking as limited to such interest as was needed for the contemplated use . . . " In the case of Brooks vs. Shepard, et al., 157 F. Supp. 379, a United States District Court case from Mobile decided by Judge Daniel Thomas in 1957, it was held that a School Board acquired fee simple title to certain land in condemnation proceedings and that the board owned the gas, oil, and other mineral rights in the land. It was held that a fee simple title could be acquired under the Alabama condemnation statutes and, in fact, was acquired specifically under the condemnation decree from which no appeal was taken.

In the case of Downing vs. State, 214 Ala. 199, 107 So. 80, the Alabama Supreme Court held that the state acquired fee simple title to certain property condemned by the State Docks Commission, and in

4. Citing *Southern Pacific R. Company* vs. *San Francisco Savings Union* (California) 79 P. 961 and *Seattle, etc., R. Company* vs. *Roeder* (Washington) 70 P. 498.

5. In re State Highway Route No. 185, Schuykill County (Glen Alden Coal Co.), Pennsylvania 1940, 14 A 2d 76; also *Pennsylvania Coal Co.* vs. *Mahon,* 260 U.S. 393, 67 L. 7d. 322.

the case of Nearhos vs. City of Mobile, 257 Ala. 161, 57 So. 2d 819, the court held that the city had acquired title in fee to property condemned for park purposes. In the latter case the court laid down the rule in the following language: " . . . the rule of the Downing Case does not mean that all condemnors acquire in every case an indefeasible title in fee. The nature and purpose for which the property is condemned must be considered. The right of eminent domain being based upon necessity cannot be any broader than the necessity in the particular case under consideration."

It seems doubtful, under the ruling of these cases, that fee simple title could be obtained by condemnation for highway purposes only. Nevertheless, it would be wise, in my opinion, for the owner of the land to make sure that only a right of way is sought, because if the proceedings purport to condemn the complete fee simple title and no issue is made on that point, the owner might be bound by decree and foreclosed from asserting any right to the minerals or other interest in the property.

There were several acts introduced in the last Alabama Legislature which, if passed, would have allowed the acquisition of fee simple title for highway purposes. Fortunately, for all concerned, this piece of bad legislation did not get far. It would have raised havoc with mining operations and would have made condemnation mighty expensive to the public. Our mines in this locality are mostly underground and sometimes extend for miles. Just suppose that the condemning authorities should decide to construct a highway down the middle of valuable mineral properties, taking complete title from the heavens to the center of the earth. The mining company could not go under the road. There would be this impenetrable wall blocking operations in the mine under and beyond this road. And since highways have a way of being long there would be no getting around it. There would be no access to the minerals on the other side of the road from existing mining operations except to build another shaft and entry which would be very expensive, if it could be done at all. It doesn't require very much imagination to see how disastrous such a situation would be to mining operations and to the public which would have to pay compensation for all the damages done.

This brings us to a consideration of the rules dealing with measure of damages where minerals or mineral properties are condemned. As a general rule, the measure of damages is the same as that which applies where other types of properties are taken. It is a question of difference in market value of the property before and after the taking. You cannot add to the value of the land taken the value of the minerals in place in arriving at the compensation to be paid.[6]

Although there has been considerable confusion among the various decisions as to the admissibility of evidence on the question of the value of minerals affected by condemnation, it appears generally to be the rule

6. *Hollister* vs. *Cox* (Connecticut 1945) 41 A. 2d 93, 156 A.L.R., page 1412, annotation at page 1416.

that evidence of such value, in one form or another, is permissible. In Nichol's *On Eminent Domain,* Third Edition, Section 13.22, it is stated: "If the extent and the quality and value of the stone as it lies on the land may not be considered, there would be no way by which the value of the land with the minerals could be shown. All legitimate evidence tending to establish the value of the land with the minerals in it is permissible. This is not to say that such minerals are to be separately evaluated but that consideration may be given to the quantity of the mineral that can be extracted and to the value thereof purely as evidence for arriving at the value of the land."[7]

There are certain exceptions to the general rule dealing with the valuation of mineral lands condemned. If only the surface of the land is involved and no minerals are affected, or, if the minerals affected have no commercial value, then as previously pointed out, no consideration need be given to the minerals or mining rights in arriving at just compensation to the owner. Another exception to the general rule which has been pointed out by the authorities is where the mineral deposit itself is the subject of the condemnation proceedings. In a New Mexico case[8] there was condemnation of certain land for the purpose of securing rock, sand, gravel, and mineral known as caliche for use on a public highway. The court held that the land owners' measure of damages was not the difference in the market value of the land but the market value of the minerals to be acquired.[9] The court further held that the owner was not limited to the market value of the minerals taken as road materials but that his recovery should be based upon the most valuable use to which it was reasonably adapted. Caliche is a mineral rock something like limestone and it was shown to be particularly valuable when processed as a mineral feed supplement for cattle. The owner was entitled to the market value of this mineral based upon this more valuable use.

Even where the condemnation proceedings do not involve a direct taking of the minerals as such, as in the case of gravel, sand, etc., for road materials, the owner would be entitled to have the best use value of his minerals considered in the fixing of the market value of the property condemned. In determining the value of the property or of the minerals, it is proper to consider the cost of extraction, its location, and all other factors which might affect the value. In a New York Supreme Court case[10] involving the condemnation of lands on which was located three stone quarries, the court stated: "Undoubtedly the proof as to the quantity and quality of the stone was important, and the cost of getting it out ready

7. Quoted and approved in *State* vs. *Mottman Mercantile Company* (Wash.) 321 P. 2d 912; also see *Burlington and Mo. R.R. Co.* vs. *White* (Nebraska) 44 N.W. 95 (stone involved).

8. *Board of County Commissioners of Roosevelt County* vs. *Good* (New Mexico 1940) 105 P 2d 470.

9. See also *Cole* vs. *Ellwood Power Company,* 65 A. 678, 216 Pa. 283.

10. *Orleans County Quarry Co.* vs. *State,* 159 N.Y.S. 30.

for market; but these are elements only to be considered with others in determining the value of the property."

To summarize, therefore, on the question of measure of damages, it seems to be the rule that where mineral properties are condemned, the value of the minerals taken or affected are to be considered in arriving at the difference in market value of the property before and after the taking, and in awarding damages if the minerals themselves are not taken but are affected. Where the condemnation proceedings are directed at the minerals themselves, such as to obtain gravel for a road, the market value of the minerals in place is the proper measure of damages.

I have not attempted to make a complete or exhaustive presentation of this subject, but I hope that sufficient has been said to give some idea about the serious problems which must be considered when minerals or mineral properties are condemned.

HIGHWAYS IN THE SKY

OLLIE P. SMITH
Land Department
Alabama Power Co.
Birmingham, Alabama

There are among our engineers those who can see beauty in the sturdy geometry of the towers and the sweeping curves of the conductors of a high voltage transmission line, and I suspect that they would be pleased with the flowery title applied to my small effort here today—*Highways in the Sky*. There probably are some points of similarity between highways and these transmission lines. In the first place, they crisscross and spider-web the state, just as our highways do. I don't know how many miles of highways Alabama has—I am sure it is quite high. But, including distribution lines, we have over 35,000 miles of lines. I don't know how much traffic one of our busy highways can carry, but a 110,000 volt single circuit transmission line can transmit in one hour 135,000 kilowatt hours of electric power. This power is just as essential to our civilization today as is the transportation represented by the cars and trucks upon our highways.

Of course, the wires are up there in the sky, but the poles are stuck in the ground, and so the question of obtaining the rights of way for these lines falls to my department. A very down-to-earth problem, I assure you, though the price sometimes seems to be in the sky. We are acquiring transmission line rights of way now at the rate of about 300 miles per year, and distribution lines, well, we must acquire some 12,000-15,000 parcels of such line each year. Each parcel, as you can realize, is a separate real estate transaction.

Transmission lines generally travel through the countryside, for after you get into town, the current is stepped down to lower voltages and distributed by the distribution lines; but, even so, some of the transmission lines must be within the city limits to get the power in to control substations. Where we go through the countryside with the lines, we may run as low as $120 or $150 per acre, as we did on a recent line from Wilsonville to the Georgia state line; while we may on the edge of town run as high as $5,000 to $10,000 an acre, as we have done during the past year. Of course, if the need becomes great enough, we may even move houses or other expensive structures, in order to get the line where it needs to go.

But, having said this much about rights of way, and thereby justifying

my appearance at this meeting, let me branch out a little and tell you a little something else about the Land Department and Alabama Power Company generally.

We are in the real estate business by necessity. It seems that every expansion by an electric utility requires a new acquisition of land. For that reason, most electric utilities have their own land departments. Alabama Power Company's Land Department is larger than most, because of the considerable hydro expansion which is going on. The Land Department's personnel now numbers around 90. These are distributed first among the Right of Way Section, which I have already mentioned to you. Next in size, is the Reservoir Acquisition Section. We have just completed the purchase of approximately 27,000 acres for Smith Reservoir, and we are 80% complete on the 45 to 50,000 acres needed for Weiss Reservoir. There are now pending on that reservoir several condemnation proceedings in the federal and state courts, in order to acquire the remaining 20% of the lands. We have four more projects to go on the Coosa, which will be stretched out over the next eight years.

We have a Forestry Section, which manages the forestry program. In acquiring previous lakes, we wound up with approximately 100,000 acres of surplus lands, most of which was put into timber. Alabama Power Company was one of the first landowners in the state to adopt the selective cutting method of timber harvesting, and we are now reaping the benefits of it. We market about $300,000 worth of timber each year.

We have a recreational director and his assistant, who try to promote recreation on our lakes. If I had time, I would like to show you some scenes from those lakes, but, since I haven't, let me encourage those of you who can, to visit those lakes for your recreation. I believe that you will be well pleased.

The buying and selling and leasing of all lands owned or needed by the company is the particular province of the Land Department; so, as result, those things which do not come under any of the sections which I mentioned to you before are assigned to the Miscellaneous Section.

I had many brilliant observations to make, when I came, both upon the law and appraising problems, but they were covered by the speakers who preceded me today, and there is no point in my hashing them over again. I will tell you that we have plenty of such problems. We are represented by a substantial size law firm, which has offices in our own building, and the majority of their time, it appears, is taken up with problems of the Land Department. In addition to that, the appraisal bill for my department will amount to more than $50,000 this year. So you see, willy-nilly, we are in the real estate business in a big way.

This, of course, is not unpleasant to me, for I must make my living. And, as long as there are such problems, I suppose there must be someone around to solve them.

To those of you who are actively engaged in the acquisition of rights of way (and I don't mean you management boys, but the ones who are

out beating the brush, who are having to buy the property from the individual), let me say that I sympathize with you. It is a head-scrubbing business; it is a wearing, frustrating job. I know from experience. Landowners are sometimes a contentious lot.

But, there are problems of organization too, and I hope that those of you who are out beating the brush will have some sympathy for those who sit in the office and have to organize the department. When I took over the Land Department in the Power Company in 1955, we were just beginning our reservoir acquisition program. This program contemplated the acquisition of about 100,000 acres of land, and there was no reservoir section of the department, as such. It had to be organized.

CONCLUSION

The growth of the electric utility serving your state is generally the best index of growth which you have. And, since the construction schedules of the utility business must be prepared about three years ahead of the actual need for the power, the plans for the expansion of your electric utility business is a good measure of the expectations of the immediate future, as assessed by men who make an intensive study of the service area.

Alabama Power Company expects, within the next three years, to invest $170,000,000 in facilities to serve the people in its service area. To me, this is the best indication of the validity of the expression which we have nowadays in the electric business, "The last half of the twentieth century belongs to the South." Any business, whose future is thus closely bound up with the life of the people of our state, is clothed with a public interest, and it should be administered in such a way as to serve the best interests of the people.

WHY THE AMERICAN RIGHT OF WAY ASSOCIATION

FRED A. CRANE, *National Chairman*
American Right of Way Association
Independence, Kansas

Why the American Right of Way Association? An interesting subject. Why indeed. Why does it exist? Why, existing, has it had such a rapid growth in recent years? Why does it inspire such fierce loyalty among those members who have taken an active part in its affairs? To be specific, why do I in the last year of my working life, devote approximately half my time to it? Why has Sam Houston devoted half his time to its affairs both last year and this year? Why have Frank Balfour, Dexter MacBride and other national officers done likewise for a much longer time? Why is my company which has no pipe lines within several hundred miles of the nearest border of Alabama willing to pay my expenses here as it is doing and from here to Detroit where I go from Birmingham on Sunday? Why, indeed?

Some may say it is because Americans are by nature joiners. I doubt that. Some may say it is because right of way men, myself included, find other right of way men to be among the most congenial and interesting companions to be found in any walk of life. I doubt even that would explain it fully. To find the real reason, we must go back further and explore more deeply.

Our organization was formed a little more than 25 years ago by Frank Balfour and three or four others then working as right of way men in the Los Angeles area. They felt that the problems attendant upon the acquisition of lands and rights of way for public, quasi-public and private purposes deserved more careful consideration than they were getting. They felt, too, that better men could be had than the political ward-heelers so often assigned to right of way work by political organizations and the broken-down brothers-in-law so often foisted upon private right of way organizations by corporation officers. Primarily, then, they sought to improve the caliber of the men engaged in that work.

Some years later, the California legislature chartered the American Right of Way Association as a non-profit, non-political, non-sectarian organization. Seven years ago its membership was confined to approximately 1,000 men organized in four chapters, one at Los Angeles, one at San Francisco, one at Portland, Oregon, and one at Seattle, Washington.

In the spring of 1953, my home chapter, Chapter 5, with nominal headquarters at Kansas City was organized. That fall came the Colorado

Chapter No. 6 at Denver, followed the next year by Michigan Chapter No. 7 and Gulf States Chapter No. 8 at Houston. The year following we chaptered in rapid succession Nos. 9, 10, 11 and 12 in Illinois, Indiana, Ohio and Pennsylvania. In June of last year, I attended the charter presentation ceremonies for Ontario Chapter No. 29 at Toronto and in September, Frank Balfour, Dan Rosencrans and several others chartered Chapter 30 in the new state of Hawaii. Next month a group of Pilgrims will present charters to Carolina's Chapter No. 31 at Charlotte and to Tennessee Chapter No. 32 at Nashville. Others are in the mill and I anticipate that at least one or two additional chapters will be chartered before my term of office ends on July 1.

As most of you know, all of this has been accomplished without a paid organizer or even a paid secretary. I take great pride in saying that no member has ever drawn a dollar of compensation from our Association and I hope none will. Frank Balfour, our executive vice chairman, draws a munificent salary of $1 per year but is required to endorse each check to the order of the American Right of Way Association. May it ever be thus.

The American Right of Way Association has one basic reason for being. It is to enable its members to do a better job. It seeks to do this by two means. Through education and through friendly co-operation.

Education, of course, begins in the chapter meeting. I have never yet attended a meeting of my own chapter or of any other that I have not come away with something helpful or thought-provoking. I doubt that any of you will fail to gain similar inspiration from any meetings you may attend.

Next, of course, comes the chapter seminar such as this and the regional seminar. Many, like this, are conducted under the sponsorship of a college or university. About an equal number normally are conducted by the chapter or chapters involved without benefit of university sponsorship. I think no man can attend a 1½- to 2-day seminar without learning something which will benefit him in his work.

The annual national seminar conducted usually during the last week in May brings nationally known speakers and panelists together for discussion of problems facing the right of way professional generally. This 3-day session will be held this year in Washington, D. C., and I hope many of you will find it possible to attend. Tuesday of seminar week is devoted to group meetings by the highway right of way men, by the right of way valuation men who generally are appraisers, by the utilities men and by the pipe line men. Each group discusses problems peculiar to it which, in general, would not be of consuming interest to the entire membership. Wednesday and Thursday are devoted to problems of general interest and they are many. I think anyone who has attended the national seminar will say that it is well worth the time, effort and expense.

Last but not least, I mention our national publication, *Right of Way,* which I am sure most of you present receive regularly. With its wealth of

timely, thought-provoking articles, I think it does much to hold together our now international organization. Probably I should take this opportunity to remind you, too, that virtually all of the articles published in *Right of Way* are contributed by members of our Association. I am sure many of you here have had an experience, a case or an appraisal which he could review for the benefit of all. We always need a backlog of material. I ask that you put it in writing and submit it to the editor of *Right of Way,* Robert R. Stone, whose address is 120 South Spring Street, Los Angeles 12, California.

Friendly co-operation, too, begins at the chapter level. Much has been accomplished in this direction merely by the acquaintances made and the friendships formed at chapter meetings. To get a letter or phone call from a man you know and like is one thing. To get a letter or phone call from a man you never heard of is another. The co-operation, of course, oils the wheels of progress. Certainly, it simplifies your problem when, representing one organization, you must seek information or perhaps even a right of way from your opposite number in another organization, perhaps even from a competitor.

Liaison is just another word for friendly co-operation. At the annual meeting of its board of directors in San Francisco in 1958, the American Right of Way Association directed that a liaison committee be set up. Its basic purpose is two-fold. To encourage advance planning and to encourage the exchange of information. It is specifically requested to refrain from entering any question of design and to refrain from discussing the controversial subject of reimbursement. The latter is, and should remain, a problem to be worked out by each organization in the light of laws and court decisions in the particular state where the question arises.

Sam Houston, whom many of you will remember from last year, is chairman of our national liaison committee. The American Association of State Highway Officials has appointed a counterpart committee and the first meeting of the two committees was held in Boston during October. At that time the committee from the American Associaion of State Highway Officials under the chairmanship of DeWitt C. Greer, chief engineer for Texas Highway Department, approved the objectives of the liaison committee of the American Right of Way Association and undertook to do everything possible to stimulate action by its members. Houston, in turn, undertook to see that chapter liaison committees are formed promptly.

The purpose of your own committee will be friendly co-operation and its objectives will be advance planning and timely notice of plans for construction by one organization which will or may affect facilities of another. Since most conflicts nowadays now occur between highways on the one hand and utilities or other agencies on the other, I strongly recommend that a member of the Alabama Highway Department be on that committee. I recommend, too, that among the members be representatives of the pipe line industry and of the power industry. I recommend,

too, that its chairman be a man of some stature who commands or can gain the attention and respect of the organizations involved. Let me remind you, however, that this committee is not to discuss matters of design or of reimbursement.

What can this committee hope to accomplish. Many things, I think. We all know that advance planning is highly desirable. We know, too, that in many states the highway department simply does not have the funds to hire engineers who can develop plans long in advance of construction. We can and should, however, encourage utility and pipe line companies to make a last-minute check with the highway department, the counties, the Soil Conservation Service and other public agencies to determine whether any conflict is likely to occur at any given point. If one is found, it probably can be worked out much less expensively before construction than after.

The owners of such facilities and particularly underground facilities should be encouraged to offer the highway department maps showing at least the location of their transmission lines. My own company already has done this and I feel reasonably sure that most others are willing to do it if requested. The information so supplied should be of great help to your highway department and enable it to avoid many needless, expensive conflicts.

In conclusion, let me say again that liaison is merely another term for friendly co-operation. No matter how good our intentions may be, we cannot hope to produce an effective liaison overnight. I do know that if and when effective liaison can be established, it will save both the taxpayers and the rate payers many millions of dollars each year. If men of good will are appointed to this committee and if they approach the problem in a friendly spirit of mutual co-operation, I am sure good results will begin to flow more quickly than you may now think possible.

Management of the SHELTERED WORKSHOP

University of Alabama
Extension News Bulletin

Management of the Sheltered Workshop

A Report of

The Institute for Sheltered Workshop Management

University of Alabama

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1. Regulations, Part 525, Employment of Handicapped Clients in Sheltered Workshops, pursuant to Sec. 14 of the Fair Labor Standards Act of 1938, as amended. Title 29, Chap. V, Code of Federal Regulations, Part 525.

2. A Regional Organization for Workshop Personnel.

Blessed is he who has found his work;
let him ask no other blessedness.

—Thomas Carlyle

Acknowledgements

From inception of the idea to the accomplished fact, this Institute for Sheltered Workshop Management has represented the combined intelligence, planning and devoted work of many persons.

Leaders in developing plans for the Institute were members of the Region IV Council on Staff Development for Vocational Rehabilitation agencies and personnel in the Regional Office of Vocational Rehabilitation, in State Vocational Rehabilitation Agencies, and in the Alabama Society for Crippled Children and Adults. The University assisted in planning and assumed responsibility for the detailed implementation of recommendations developed by these groups.

The Institute was one of the several training ventures undertaken by Vocational Rehabilitation agencies of this region in recent years.

Full credit should go also to the speakers who gave generously of their time and knowledge in stimulating and informative presentations and to discussion leaders and presiding officers.

The group is particularly indebted to Mr. C. T. Higgins of the Alabama Society for Crippled Children and Adults, Mr. George M. Hudson of the Alabama Vocational Rehabilitation Agency, and to Mr. Steve Yates of the Jefferson County (Alabama) Medical Society for valuable assistance in the preparation of this publication.

Acknowledgement also is made to the National Association of Sheltered Workshops and Homebound Programs, National Institute on Workshop Standards and to the Office of Vocational Rehabilitation for references cited herein.

The interest and support of the Office of Vocational Rehabilitation of the United States Department of Health, Education and Welfare, were an essential part of this undertaking.

This report is a summary of the statements and discussions which made up this conference. All concerned hope it will be useful to the managers of sheltered workshops.

J. R. MORTON, *Dean*
Extension Division
University of Alabama

SPEAKERS

SHELTON W. McLELLAND, *Associate Regional Representative*, Office of Vocational Rehabilitation, Department of Health, Education and Welfare, Atlanta, Ga., "Significance of Professional Training Programs."

WILLMAN MASSIE, *Specialist*, Rehabilitation Facilities, Department of Health Education and Welfare, "The Origin and Function of the Workshop Movement."

R. C. ADAIR, *Executive Director*, Goodwill Industries, St. Petersburg, Fla., "Responsibilities of a Successful Workshop Manager—General Administration."

MARVIN L. McPHERON, *Executive Director*, Goodwill Industries, Memphis, Tenn., "Responsibilities of a Workshop Manager—Operations."

WILLIAM KAUFMAN, *Executive Director*, United Fund for Mobile County, Mobile, Ala., "Responsibilities of Workshop Managers—Public Relations."

FOX LIGHTFOOT, Radio Station WBRC, Birmingham, Ala., "Radio and TV."
KARL ELEBASH, *The Graphic*, Tuscaloosa, Ala., "Publications."
LEWIS M. MANDERSON, *President*, Alabama Outdoor Advertising Association, "Signs, Pictures and Placards."
PANEL DISCUSSION, "Responsibilities of Workshop Managers—Sales and Contractual Relationships," R. C. Adair, presiding.
Charles T. Higgins, *Director*, Rehabilitation Workshops and Home Industries Programs, The Alabama Society for Crippled Children and Adults, Montgomery, Ala.
Arnold M. Wilkerson, The Sheltered Workshop and Rehabilitation Center, Tampa, Fla.
R. W. Youngman, *Merchandising Representative*, Florida Cooperative for the Blind, Tampa, Fla.
L. J. Waller, *Supervisor*, Vocational Rehabilitation Services, Birmingham, Ala.
Howard Lytle, *Executive Director*, Goodwill Industries, Indianapolis, Ind.
PANEL DISCUSSION, "Responsibilities of Workshop Managers—Rehabilitation Services." Shelton W. McLelland, *Associate Regional Representative*, Office of Vocational Rehabilitation, Atlanta, Ga., and George M. Hudson, *Supervisor*, Rehabilitation Services, Montgomery, Ala., presiding
George G. McFaden, *Supervisor*, Services for Homebound and Blind, Division of Vocational Rehabilitation, Montgomery, Ala., "Evaluation and Diagnosis."
E. H. Gentry, *Director*, Adult Blind Department, Alabama Institute for the Deaf and Blind, Talladega, Ala., "Personal Adjustment Services."
W. A. Crunk, *District Supervisor*, Division of Vocational Rehabilitation, Selma, Ala., "Training."
George L. Hurt, *Area Supervisor*, Division of Vocational Rehabilitation, Birmingham, Ala., "Placement: Transitional; Terminal; Industrial."
Roberta Townsend, *Director*, Survey and Home Work Department, National Industries for the Blind, New York, N. Y., "Industrial Home Work."
E. B. Whitten, *Executive Director*, National Rehabilitation Association, Washington, D. C., "Relation of Workshop to the Rehabilitation Movement."
PANEL DISCUSSION, "A Regional Organization for Workshop Personnel," panel members, Miss Roberta Townsend, Dr. R. C. Adair and Charles T. Higgins.

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I. HISTORY AND DEVELOPMENT

Origin of the Workshop

Growth and Function

Changing Patterns

Future Outlook

The horizons of opportunity have been extended remarkably in recent years for America's handicapped citizens.

On-rushing forces of awakened community interest, government support and dedicated professional leadership have opened new doors of opportunity for the handicapped to become self-sufficient, satisfied, and important in the complex pattern of modern life.

At the heart of this development has been the sheltered, or special, workshop which has evolved into a vital community facility for job training, rehabilitation, and continuing work opportunity.

The origin of the sheltered workshop is not known. Perhaps in some primitive society a man handicapped by battle or beast was set to work flaking the flint for weapons. Perhaps it was first developed in the work houses resulting from the Elizabethan Poor Laws. It is known that in the early 1600's St. Vincent de Paul pointed the way to the use of work as therapy for the body and spirit. He established a small hospital where old people found shelter and work suited to their condition.

At one of the early schools for the blind in this country, Perkins Institution in Boston, Mass., America's first sheltered workshop was established in 1840.

Over the years, industrial homes combining residence and work opportunities for adults, developed. Medical progress, and concern for rehabilitation of disabled veterans after World War I and II, coupled with State-Federal vocational rehabilitation programs and passage of Public Law 565, have given great impetus to the movement.

Today there are from 600 to 800 such workshops. The scope and depth of these programs vary tremendously. Most fall within these areas:

(1) to provide a laboratory for vocational diagnosis and evaluation; (2) to provide a practical and realistic setting for vocational training and adjustment; (3) to provide a setting for sustained focus on the total needs of the individual, especially for motivation, vocational exploration and try-out; (4) to provide therapeutic work experience, and (5) to provide gainful employment.

Purpose Of a Workshop

The passage of Public Law 565 has given a foundation to the belief that more of the severely disabled must be served by a broadening range of services that will restore them to gainful employment.

The over-riding goal, however, was clearly expressed at the Institute by Dr. R. C. Adair:

"The purpose of a workshop is to help handicapped people live a full, happy and abundant life. It is not to build an institution; it is not to give glory to an executive or a board, or anyone else; but as we endeavor to help handicapped people we will build an institution. The welfare of the people must come first and this requires the long look as well as the short look at what, eventually, will be the greatest amount of good to the largest number of people."

Federal Role

The Vocational Rehabilitation Amendments of 1954, Public Law 565, launched the Federal government into grant programs to aid voluntary organizations in rehabilitation to expand and improve services, to conduct research, and to enlarge workshops and facilities.

The Medical Facilities Survey and Construction Act of 1954 (Hill-Burton), provided for Federal aid to states for rehabilitation facilities which must include medical, social, psychological and vocational services.

The Wagner-O'Day Act of 1938 is the statute under which the workshops furnish articles to the Federal government. The Fair Labor Standards Act, commonly called the Federal Wage and Hour Law, provides for compensation of employees in interstate commerce at a given rate, currently $1.00 per hour for 40 hours in a work week, and time and one-half for that in excess, unless the employer is exempted from provisions of the Act.

The Act provides for a special certificate permitting the payment of wages lower than the minimum rate to handicapped persons engaged in interstate commerce on in production of goods for interstate commerce. Under this provision any sheltered workshop may file application for a special certificate with the Wage and Hour and Public Contracts Division of the U. S. Department of Labor. Help and information may also be obtained from this source. Certificates ordinarily are for one year and are renewable.

A certificate under this Act applies also to the Walsh-Healy Act which pertains only to government contracts in excess of $10,000.

The Small Business Administration has demonstrated interest in helping sheltered workshops obtain government and industrial subcontracts.

Since 1954 more than $6,500,000 of Federal vocational rehabilitation funds have been granted to rehabilitation facilities and workshops, most of which are administered by private agencies.

Tomorrow's Workshop

In an address in Detroit, Mich., June 25, 1959, Mr. Henry Redkey of the Office of Vocational Rehabilitation, envisioned these things in the workshop of tomorrow:

(1) It will be open to all disabilities; (2) skills required for successful workshop management will increase rather than diminish; (3) the workshop will be modern, carefully laid out, and managed as effectively as any industry; (4) the best industrial brains in the community will be represented on its board of directors; (5) wages will keep pace with those on the outside, and (6) more and more effort will be expended to continually increase understanding of the aptitudes, interests, and abilities of those served.

Another factor to be considered is accreditation. Workshop standards are now being developed by the Institute on Workshop Standards with the support of the Office of Vocational Rehabilitation and the National Association of Sheltered Workshops and Homebound Programs, Inc.

Periodic self-evaluation within the framework of these standards should help insure efficient and effective operation of the workshop.

Workshop Personnel

The goal of 200,000 rehabilitants by 1959 was not attained, partially due to shortage of trained personnel and lack of facilities. The shortage of personnel includes workshop managers and extends to those disciplines of medicine, social work, psychology, physical therapy, occupational therapy, nursing and rehabilitation counseling.

Fortunately, many public and private agencies now offer scholarships, traineeships, and funds for institutes and short-term courses. Some of the scholarships and traineeships have not been used and there is a need to encourage qualified men and women to enter these fields. A list of training opportunities can be obtained from most colleges and universities, from the Department of Health, Education and Welfare, and from such private agencies as the Easter Seal Agency and National Foundation.

Changing Pattern

From a simple facility for one specific handicap, the concept of the workshop now evolving appears to be that of a center providing work environment and work experience for evaluative, diagnostic, therapeutic, and employment purposes, and relying upon community

rehabilitation resources for other specialized evaluative and supporting services.

The workshop program of the future might offer prevocational training, vocational evaluation and training, transitional work experience, job adjustment, semi-permanent employment, placement, and permanent employment.

The work structure would include: (1) manufacture and marketing of articles developed by the workshop, (2) industrial work such as assembly under subcontracts; (3) reclamation and repair of salvage or custom items; (4) operation of a small business enterprise; (5) business, personal and maintenance service.*

The Workshop of today and tomorrow holds the hope of helping the handicapped attain that goal eloquently expressed by Carlyle:

"A fair day's wages for a fair day's work: it is as just a demand as governed man ever made of governing. It is the everlasting right of man."

*The Role of the Workshop in Rehabilitation—National Institute on the Role of Workshop Rehabilitation.

II. ORGANIZATION OF THE WORKSHOP

Physical Facilities

Board of Directors

Staffing

Financing

"The workshop is and should remain a grass roots rehabilitation agency. It should rise out of community needs and be responsive to them."*

In developing its program, the local workshop can benefit from community meetings of workshop personnel, representatives of other agencies, and citizens who can help in various ways. Conferences at the state, regional, and national level can provide valuable information, broaden perspective, and inspire local workshop personnel.

Physical Facilities

The sheltered workshop should be located in a suitable community setting accessible to public transportation, on enough ground to allow for expansion and for parking.

One-story buildings of open design are favored, with space for administrative offices, production, storage and service functions. Floor areas should not be divided by weight-bearing walls, insofar as possible. Aisles should be wide enough to allow two wheel chairs to pass.

Construction and arrangement should conform to building, fire and safety codes. City building codes, fire regulations, and safety engineering should be checked carefully by experts in each field. Appropriate city authorities will help in establishing standards and in periodic inspections.

The structure should be well-lighted and ventilated, sanitary, and attractively decorated.

Production space and equipment location should be planned to make maximum use of direct line work flow from storage area through production to shipping area.

A lunch room and multi-purpose room should be provided for lunch and coffee breaks, with a minimum of equipment which would enable the facility to serve coffee, soup, and sandwiches. This area should have a pleasant and relaxing atmosphere.

County health departments can provide information and advice on sanitary facilities, health, and safety aspects.

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*The Role of the Workshop in Rehabilitation—The National Institute on the Role of the Workshop in Rehabilitation, 1958.

Fire warning devices and an emergency power shut-off switch are essential.

Board of Directors

A Board of Directors, made up of the most able community leaders from various businesses and professions, should have the responsibility for setting policy, and for the development, maintenance, and improvement of the stated purpose of the workshops.

The number of board members and length of term in office may vary. Five to 30 is the usual range, depending on size of the workshop. A sufficient number should be elected to staggered terms to insure continuity of programs. Annual election of officers is favored.

Board members should have varied talents, and training, such as: communications, law, accounting, sales, management, personnel work, church work, public relations, women's work, education, government, etc.

The board is responsible for policy in management and fiscal affairs, public relations, operations, rehabilitation, sales and services, evaluation, and methods. The board will have to delegate authority to the executive but a good executive must provide leadership through his ability, knowledge, and ideas to help the board determine and carry out its plans.

Monthly meetings are recommended except possibly during the Summer months, during which time committees carry on. Suggested standing committees include: public relations, operations, sales, budget and finance, rehabilitation, and such special committees as needed for actual work.

One Institute speaker found an Advisory Board very advantageous. Members are elected for a one-year term and this group meets in the Fall, with the regular board at the annual meeting, usually in the Winter, and again in the Spring.

The Advisory Board can serve as a sounding board for ideas, and for training future members of the Board of Directors. Also, this helps spread community interest in the workshop.

For both groups, get leaders, thinkers and do-ers—not "stationery decorators."

Staffing

A workshop probably can be no better than the weakest staff link in its chain of command. Qualified, enthusiastic, and well-paid staff members will help insure success of the workshop. Staff functions include business management, public relations, operations, rehabilitation, contracts and sales, evaluation of organization and methods.

Define job responsibilities clearly, train staff members individually, then turn over designated responsibilities to them. Staff meetings are worthwhile for planning, coordinating, and assignment, but should be short and snappy.

A complete staff for a workshop should consist of not more than five responsible to the executive and such junior staff members as required. Junior staff members are responsible to the senior staff member, but not more than five should be responsible to any one person.

Teamwork is essential and one means of accomplishing this is an in-service training program.

An organizational chart, job description list, and employee handbook are desirable.

Financing

Funds for the sheltered workshop may come from various sources and combinations of sources: from its own products and services; community agencies; gifts; bequests; state, local or Federal government loans or grants.

Money-raising should never be a substitute for poor management.

Overhead should be kept low and expenditures made where they will bring the biggest return in reaching the workshop's objectives. A minimum of one week's payroll should be kept in the payroll reserve. The operating account should be built up to an amount at least equal to one month's operations. Equipment should be funded in the equipment reserve as it depreciates. Insurance should be paid each week by placing that amount in the insurance reserve to be available when needed. Building funds and money raised for special purposes should be kept in special and separate account for those purposes.

A financial campaign may be necessary. If so, the steps to success are: (1) organize; (2) explain; (3) solicit; (4) follow-up after the solicitation with thanks and direct mail appeal to those not responding.

Direct mail is an excellent method of solicitation. Choose good stationery that carries an appeal and keep the message simple, direct, and emotionally appealing. A pamphlet with details may be enclosed. A reply envelope, addressed and not requiring a stamp, should be included. A permit for first-class return mail can be obtained from the post-office. Stationery of golden rod and blue with reddish-pink envelopes are said by color psychologists to be the most effective in getting attention and response.

Letters to executives should be mailed Monday to arrive on Tuesday, their lightest mail day.

Cash donations should be acknowledged promptly with an individualized thank-you note.

Under Sections 2 or 3 of the Vocational Rehabilitation Act, through the state vocational rehabilitation agency, a non-profit agency may obtain financial assistance for a workshop project.

A draft should be prepared stating the purposes and need of the project, how it relates to the needs of the disabled, how it will operate, personnel requirements and availability, and preliminary budget estimates. Such proposals should then be discussed with the proper officers of the state rehabilitation agency.

III. GENERAL ADMINISTRATION

Basic Problems

Accounts, Records, Controls

Cost Controls

Flow of Work

To insure efficient operation of the workshop, a clear administrative policy should be adopted by the Board of Directors and used as an operational guide.

The private workshop or parent organization should be incorporated under applicable statutes as a non-profit organization. Application should be made immediately with the Internal Revenue Service for tax-exempt status under provisions of Title 501 c (3) or applicable regulation. Applications for tax-exempt status should be made also with the state department of revenue and for mailing privileges as a non-profit organization, with the U. S. Post Office. Wage exemption certificates should be sought from the Wage and Hour and Public Contracts Division of the U. S. Department of Labor.

Accounting

Accounting is a tool to help management maintain sound financial controls. An accounting procedure should be set up to cover four main items: (1) capital costs, (2) production, (3) overhead expenditures, and (4) rehabilitation services.

In a workshop, capital is invested for service. Many industries have found that it takes an average of $15,000 of capital investment for each job created.

The minimum for a sheltered workshop, largely with hand labor, has been placed at $2,500 per job. This may vary.

The accounting procedure should be such that the manager can determine production costs and compare these with estimates on which he based price, and his labor rates.

In determining overhead expenditures the manager must know what are precise costs of accounting, postage, secretarial service, telephone, space, utilities, sales expenses, and maintenance of necessary records, so these costs can be apportioned to contract work where applicable and used for fiscal analysis.

A rehabilitation-type workshop may employ staff people such as physician, nurse, psychologist, therapist, social worker, vocational counselor, and others. The accounting program should be set up

so that these rehabilitation costs can be determined and the proper subsidies secured to pay for these services. It is not sound practice to ask a handicapped worker to accept lower wages so a part of his production can be used to finance services for other workers.

A properly qualified accountant should help set up the system to provide the information needed and can instruct the bookkeeper in its operation. An annual audit should be made to verify records, insure honesty, and to find simplification which may facilitate work and save money.

In accounting, keep things simple. A pegboard system often is useful in keeping accounts and making out payrolls. All bills should be paid by check with two signatures required, one of a designated board member and the other of the manager. Checks with vouchers in triplicate are suggested, one copy of the voucher going to the creditor, one retained as a stub, and the third stapled to the invoice and filed.

Do not keep large sums of cash on hand—deposit it in the bank. Some petty cash is necessary. A simple petty cash voucher pad can be obtained from a stationery store. A receipt should be obtained for all petty cash expenditures, and petty cash should be reimbursed periodically.

Everyone who handles money should be bonded. A blanket bond will cover five employees and can be purchased on a three-year basis at reduced cost.

Cost Controls

A careful and systematic use of controls will avoid waste and increase efficiency. Regardless of the size of the workshop, essential controls needed are: weekly cash report; monthly balance sheet and operating statement; weekly budget of payroll by department; a merchandise flow from plant to stores compared with sales; production department payrolls compared with sales of merchandise produced by that department.

Items produced should not be credited to a department until they are sold. Departmental check sheets, such as a store check sheet, will help in keeping track of the many details which should be handled by departments.

Flow of Work

Efficient production commences with a good departmental layout and production plan. The aid of a competent production engineer should be sought in preparing this plan.

Work flow commences with the dock, the point of material in-

take. Departments and work processes should clearly define where they begin and end. The definition should be apparent to the eye. Wherever there is a clutter, there cannot be efficient or maximum production, nor can it be assumed there is good job training and rehabilitation.

Production calendars for those engaged in seasonal work are essential. Too often, production schedules are left to memory and this can be fatal in meeting deadlines. The initial production calendar can be as simple as a projected work plan by the month.

Production incentives are permissible and, perhaps, required. Once a person is indoctrinated into the atmosphere of the sheltered workshop, it should not be assumed that he needs no challenge to produce his best. An incentive method therefore can be justified.

IV. OPERATIONS

Type of Work

Costs

Pricing Policy

Production

Quality Control

A sheltered workshop is, in a sense, an industry—but with a significant difference.

Its main objective is services to handicapped individuals rather than production of goods for the accumulation of profits. Its dividends are training, rehabilitation, and work opportunity for the handicapped, not dollar returns to the stockholders.

In order to simulate industry, various type of work is undertaken by the workshop not only for training value, but also to help the workshop and hence the employee, become as self-sufficient as possible.

Some of the types of work suitable for the workshop are: manufacture of new goods; assembly and related services; sub-contracting; utilization of used materials, and rendering of special services.

It has been one state's experience that the best contracts have come from the so-called "nuisance jobs." These are jobs which are necessary to industry but which they had rather farm out so that workshops in that state have been successful in obtaining good contracts.

Examples of these contracts include: making pom pom or powder puff bows out of ribbons, making boxes and packaging the bows; manufacture of wood engineering stakes; building mosaic table tops; repair of soft drink cases; manufacture of aluminum awnings; collating; manufacture of electrical switch boxes; revising catalogs; folding jobs for paper company; salvaging aircraft hardware; assembling valves; making gloves; shelling peas; manufacturing litter bags; making collection plates out of reed; pot holders; aprons; brooms; mops; sewing work; mats and related items.

A workshop in another state has a somewhat different list but also finds sub-contracting beneficial. Its industrial production includes many advertising items such as danger flags; carpenter aprons; pot holders; shoe cleaners for hotels; litter bags, and leather key cases. That shop also makes wax appliers and wax applier refills—sold to the Lighthouses for the Blind; resin bags for sportsmen; shoe buffers

and similar items. An example of sub-contract work is cutting and bending steel rods for concrete manufacturers.

The workshop manager should work closely with industries, especially on sub-contracts, in determining a fair price for the sub-contract on a per unit basis.

The values of sub-contracts are: (1) training, (2) work adjustment, (3) development of proper attitudes, (4) development of good work habits, (5) development of mechanical aptitudes, (6) learning to relate to people, and (7) placement by having the employer come to the shop and see the workers.

Securing Contracts

Members of the Board of Directors who are well-chosen and who represent a cross-section of the community can help the workshop manager identify and make the initial approach to contract opportunities.

Some states have enacted laws (example: Alabama Law, Act 542, Regular Session 1955) which provides that state agencies and institutions should purchase products manufactured by bonafide sheltered workshops wherever possible.

Alert managers and rehabilitation counselors who know their communities can help secure sub-contracts, as can workshop committee members.

Costs

The importance of accounting in cost control has already been mentioned. Many factors go into the cost of operating.

Purchasing should be by competitive bidding based on specifications. Written requisitions, purchase orders, and purchase journals should be maintained, and where possible, purchasing should be done centrally.

Overhead should be charged on contract jobs. Setting costs too low may have the effect of subsidizing employers and giving them unfair advantage.

Included in overhead charges should be allowance for supervision, both line and management, direct but non-productive labor, occupancy, clerical and accounting, transportation, fringe benefits, material handling, depreciation and amortization of equipment.

One organization reported its experience to be that supervision costs will represent about 20% of the direct labor costs, depending upon the amount of warehousing necessary. Five per cent probably is a minimum. Eight to nine percent is average and 10% to 12% is possible, depending upon the nature of the job.

Sales costs run at least 7½% of direct labor costs. Indirect labor costs may vary greatly, from 15% to 75% of the direct labor cost. Administrative costs are 20% to 25% of the direct labor costs and replacement of capital investment will average about 10% of direct labor costs.

Pricing

A workshop should produce items which will be a credit to the productivity and capacity of its workers and meet prices of comparable products. Institute speakers agreed that it is a dangerous, if not fatal practice to cut rates of products and attempt to offset this by obtaining subsidies from the community or other sources.

Howard Lytle cited an example of this practice which resulted in loss of job for the shop executive, adverse reaction by business, and removal of the shop from the approved list of charities.

Conversely, products should not be overpriced to the extent that the public is required to pay a penalty which would defeat the purpose of the workshop.

Costs previously described all must be considered in setting prices. Overhead above direct labor costs, will usually be between 75% and 100% of direct labor costs. The average for overhead in private industry is close to 150%. In sheltered workshops supervision cost per unit produced and the space required range higher than in private industry because there are fewer units per square foot. The sheltered workshop almost always has a tax advantage.

Some industries have a burden rate of 300 per cent or more than direct labor material cost. Yet, some sheltered workshops accept subcontract work at cost of labor plus materials, plus 20 per cent. It is obvious that this practice could not continue without serious consequences.

A company should expect to pay the sheltered shop direct labor costs at the workshop's rate and material costs plus a reasonable amount of what would be the burden in its own plant. Industry expects to charge such costs as they represent regular expenses.

If a contractor gives $1,000 worth of business and it would cost $250 to do the work, the shop would have $750 to help pay for the cost of supervision or maintenance of equipment. That is a fair policy, if fair wages are paid workers and the price is a current market price.

Production

Institute speakers believed the time has come, in the evolution of workshops, for realistic evaluation of what should be expected

of a worker in a given period of time.

Shops which have been going along without expert advice have been shocked to find that production was below potential for various reasons.

Shop foremen and supervisors should conduct their own periodic studies of layout, arrangement of material, and work flow in order to minimize unnecessary expenditures of time and energy. Written reports should be made of such surveys.

It was suggested that workshops would benefit from studies by industrial engineers. This would usually involve jigs, tools, setup, time-motion studies, expected fatigue factors, etc.

Quality Control

There seemed to be a widespread belief that workshops have lost more jobs because of poor quality control than for any other reason.

Ironically, many jobs which come to workshops have done so as a result of inadequate quality control. Customers have sent the material on to the workshop for re-inspection and correction.

To avoid this in the workshop, inspections must be carried out, varying from spot checks of perhaps 3%, to 100% inspection.

Consistent high quality of workshop's products will be one of its greatest assets in attempting to get and keep community and customer acceptance and confidence.

V. CONTRACTS AND SALES

Industrial sub-contracts provide opportunities for training at industrial speed. Good workmanship is emphasized because carelessly-done work is rejected and returned.

The sub-contract simulates actual industrial situations and thus provides good training. It takes a small amount of space and saves on overhead.

Contract work, however, may be seasonal and sporadic, limited in variety, and may require a high level of supervision.

How does a workshop proceed if it wants to get into sub-contracting? First, it must have something to offer. It can be just people and space at the start, but skills must be developed and combined. As new skills are developed, make them known to present and prospective customers, working closely with purchasing departments which have the responsibility for buying. Through purchasing you can become familiar with the problem of all departments.

Direct contacts with the president or vice-president of a company also facilitate contract awards. This may be done through clubs or personal associations, civic and welfare organizations, employment offices and the like. An effective public relations program also is essential to contract negotiations. The actual closing of the contract, however, usually has to be accomplished between the workshop director and key persons of the company concerned.

Sales

The proof of the product is in the selling.

For this reason, a dynamic workshop must constantly analyze its markets so it can (1) add promising items to its production, and (2) improve its established products to meet changes which may appear in its competitors' products.

Know the customer, his buying habits and the use he intends to make of the product. Does he plan to use it for advertising purposes, consume it in his business operations, or how does he plan to use it? The answers furnish valuable clues to characteristics of the product considered by the buyer when making a purchase.

Selling aids are important. Arnold M. Wilkerson stated: "We have a catalog of our industrial products. We give anybody who looks like a salesman a sample kit. We display our products in local banks and other public places. On certain products, like the hotel shoe rags, we send out mail advertising, and our results are surprisingly good. We label every product we make. Our shop is always open to visitors and we encourage shop visitation by business

and labor leaders . . . And, whenever we can, we stress our products and services in our public relations efforts, such as news stories, speeches, and TV and radio appearances."

Selling workshop products has certain advantages. The fact that the product is made or the services performed by the handicapped helps open doors to salesmen. The buyer has to be quickly convinced, however, that the price and product are good. Tell about your program, but don't oversell it.

Word-of-mouth reports by satisfied customers are your best advertising. Satisfied customers are the key also to re-orders. Re-orders permit, among other things, (1) lower selling costs, (2) opportunity to stockpile, (3) assurance of steady work, (4) the needed ingredient for fast delivery, and (5) the enhancement of the workshop's reputation as a reliable business operation.

Unless substantial re-orders are forthcoming, the workshop should analyze its production and sales program to determine what is wrong.

Sales Methods

Experience has proven that a well organized, well managed and properly supervised sales organization can do much to enhance the growth possibilities of the workshop. This organization should operate under supervision and control of the workshop manager.

If several workshops are operating within a state, they may find it advantageous to form a state-wide organization under supervision of a board of directors made up of workshop managers. In a state-wide organization products should be assigned by mutual consent to the workshop or workshops which request them.

Workshop products can be marketed through established wholesale and retail outlets, thus allowing these concerns to make a profit. The business should always be expected to take advantage of better opportunities when available, and this means purchases from workshops may be curtailed.

Truck routes providing rack service deliveries to small and large retailers have been found to a dependable method of distributing a substantial amount of goods.

Many states have laws giving preference to products made by the blind. These laws could be amended to include products of the other physically handcapped.

A good door-to-door selling operation can also have many advantages. One satisfactory method is for the workshop to contract with a distributor who employs the salesmen. Such salesmen should be identified by cards, badges and letters of introduction. The well-

trained door-to-door salesman can explain the intent, purpose and function of the sheltered workshop, and can bring back ideas for new products.

Retail stands and club sales also have proved of value.

Sale of Services

The sale of services of the handicapped both in a workshop setting and in the home can best be effected by personal contact with contractees. Mass mailing of informational pamphelts and bulletins are good steps, in that they locate businesses interested in discussing contract work. A well planned homebound placement can include several contracts. The stringing of tags, for example, would not guarantee sufficient income to the worker. But envelope stuffing, collating and folding, packaging and bookbinding could be included. Clients might roll newspapers for route delivery.

Sale of products of the homebound can be handled through the retail sales distributors. The sales distributor can pick up products at the home and also act as inspector.

In Summary

The sales program can be the life blood of the sheltered workshop. It can sell the finished product, locate new products, and redesign the old.

The sales organization can bridge the gap between a social agency operation and present day business methods. It can be the eyes through which the public sees a workshop and its workers, and the all-important means by which friends and supporters are won—or lost.

VI. REHABILITATION SERVICES

Evaluation and Diagnosis

Training and Personal Adjustment

Placement

Industrial Home Work

The Workshop in Rehabilitation

Workshops are playing an increasingly important role in total rehabilitation services for the nation's handicapped.

Rehabilitation is a process of assisting an individual with disability to realize his potentialities and goals physically, mentally, socially, and vocationally, and by so doing to make a satisfactory adjustment to life.

Since these objectives coincide largely with those of the workshop, a closer working partnership between workshop personnel and those in vocational rehabilitation services was urged by several Institute participants.

All applicants for admission to the workshop program should be considered in terms of written criteria for eligibility and in light of written medical, psychological, social, educational, and vocational information. Those accepted should be notified formally and those not accepted should be referred to appropriate community sources.

Under the provision of the Rehabilitation Act, the rehabilitation counselor is responsible for (1) interpretation of the individual's aptitudes, interests, physical and mental abilities and other qualities required for attaining an employment objective, (2) aiding him in determining a vocational objective, and (3) determining services needed for him to attain the vocational objective.

Factors which will determine the method of evaluation are type of disability, educational and employment background, services available at the workshop and in the immediate community, social and economic background of client and family, interests and aspirations of the worker, and employment opportunities available.

The first part of the evaluation program, one to three weeks, might well be devoted to activities designed to learn more about the worker's interest, aptitudes, abilities, and to check on certain intangible factors, such as work tolerance, work habits, attitudes toward others, attitude toward his disability, ability to follow written and oral instructions, and other things which will not appear in an early interview or limited testing.

It was suggested that workshops could make better use of psychological testing and counseling, especially for those without work experiences.

Tryouts in various departments of the workshop can help bring out the worker's strength and weakness, his work tolerance and other factors necessary for a program tailored to his needs.

Success of the evaluation period will depend to a large degree upon a joint understanding and coordinated effort by all concerned, including the worker; the degree and extent the worker can be motivated and stimulated to participate; and activities being varied and adequate to keep him busy.

Careful reports should be kept on each worker to reflect the effectiveness of services and activities, as a reminder of his needs and as a basis for planning future services.

Training and Personal Adjustment

Training is divided into three general units—work evaluation training, work adjustment training and specific vocational training.

The primary purpose of evaluaton training is to determine skills and knowledge along with related characteristics necessary to arrive at an employment objective.

Work adjustment training is designed to teach the individual how to get along in a job. This would include (1) ability to confine himself to his job and refrain from muddling in jobs of others around him; (2) ability to get along with co-workers; (3) ability to conform to and respect shop rules and regulations; (4) respect for supervisors and the ability to relate to supervisors and others concerning the job and its requirements.

Work adjustment must include also activities designed to increase physical and mental tolerance in the job, and to increase use and function of impaired members of the body and management of medical problems.

Counseling and guidance on a day-to-day basis is essential as the client advances from orientation, elementary training and progresses in a logical fashion to the more complex and difficult tasks.

The workshop staff must make regular and special reports to show the worker's progress, which to the counselor justifies tuition, transportation, training supplies, and maintenance. The staff also should acquaint the counselor with any changes in the worker's physical, mental or vocational status. If services are needed and not available at the workshop, such as medical, psychological, etc., these should be requested of the counselor. The counselor should be advised of plans to place or to terminate the worker at the workshop.

The modern workshop should offer various personal adjustment services—social adjustment, work adjustment and physical adjustment. Some workshops make available programs of religious activities.

Placement

Institute participants differed in their beliefs as to who should be responsible for placement of the trained employee. Some believed it should be the rehabilitation counselor, others that the responsibility should be that of the workshop manager, and others held the view that placement is the joint responsibility of counselor and workshop manager.

Types of employment are transitional, terminal or industrial. In addition to the rehabilitation counselor, resources for placement would include J.O.B. Committees, State Employment Services, Boards of Directors, and Community Groups.

Industrial Home Work

Industrial home work was considered a good outlet for purposeful work activity among those too handicapped to commute to and from the workshop.

Jobs should be simple and correlated with the worker's ability as approved by the staff. Continuous work should be made available if possible.

Sources of assistance in securing industrial home work would include civic and business organizations, state development commissions, buyers in stores, staff person to solicit work, mailings, and news, radio and TV announcements.

The Workshop in Rehabilitation

In the years ahead, the workshop is going to play an increasingly important part in total rehabilitation planning. It is estimated that at least one-half of the severely handicapped people not now being served by rehabilitation agencies will need sheltered employment, at least in the beginning, if they are to be rehabilitated.

Many workshops remain essentially places where disabled persons, not suitable for open employment but capable of some productivity, find employment. But the pattern is changing into that of dual function—providing training for employment in industry for its graduates, and continuing work for those unable to make the transition.

Another well-established trend is for the workshop to seek community-wide counsel in determining its function and planning its activities. Workshops must fit into the total pattern of community services to the handicapped.

A third trend is that workshop administrators and boards have in general accepted the principle that workshops operate for service and not for profits. This means that supplemental sources of income must be found.

Local communities and state and Federal governments are spending on rehabilitation efforts a small fraction of what is being spent on public assistance to the disabled. In 1959, some 700,000 disabled persons were drawing cash benefits under the OASI program which began in 1956. Several measures have been introduced in Congress to libralize this program, one by removing the age 50 limit.

Thus it is not yet clear whether the American people are committed to the proposition that every person can be productive and consequently enough resources must be devoted to organized rehabilitation services to make a substantial impact upon disability and attendant dependency—one of our most serious problems from a social viewpoint and one of our most expensive economically.

It is probable that as long as the pioneer spirit of self-reliance remains in American hearts, the workshop and rehabilitation services will play an increasingly vital role in helping the handicapped citizen find pride and satisfaction in his work.

VII. TELLING THE WORKSHOP STORY

Public Relations Defined

Basic Policies

Communications Media

Newsworthy Activities

A sound public relations program is essential if the workshop is to cultivate a favorable community climate in which to develop.

It is not enough to have a well-run and worthwhile program. It is essential to have an intelligently planned program of information for the public to stimulate community interest and support, and to create goodwill for the workshop.

It is important that the community understand the problems of the handicapped and know them as individuals.

Institute speakers noted that "public information is what you say, and public relations is how you say it."

Almost every activity of the workshop has some direct or indirect public relations concern—the products its makes, personnel policies and internal attitudes on the part of staff and workers, the programs and activities of the workshop.

The best starting point is to be sure that internal public relations are in order. Lasting impressions are formed by persons visiting workshops or even passing outside. Persons answering the telephone should be pleasant, alert, and well informed. Visitors should be greeted by cheerful and alert persons. Develop a simple, attractive and well-illustrated leaflet or folder to give visitors and interested groups explaining who you are and what you do.

Never assume that the public knows all about your workshop. Tell them continually in varying ways. Do not be afraid to think of new approaches to get your story across. Try them on friends working with the various mediums of communication.

Personal Contacts

The workshop manager or director, one or more staff members, board members and perhaps a speakers' bureau should be charged with public relations responsibilities.

The best starting point, and one often overlooked, is personal contact with persons responsible for the various mediums of communications in your community. Call on key persons at the newspapers, TV and radio stations, outdoor advertising agencies, theaters, and tell them about your workshop. Ask them for advice and sugges-

tions. Ask them what material they can use—they will feel more inclined to use it if they suggest it. Get the names of persons with whom you can deal continuously.

Have a "press party" from time to time and keep your friends in communications informed. Invite them individually to drop by to visit your workshop.

Basic Policies

Even before the workshop door opens for the first time, the director and board should draw up a definite policy on public relations activities, as well as a planned program.

The policy should define aims and objectives and spell out who will serve as spokesman for the organization. Designate an alternate if the main spokesman is not available. Tell press, radio and TV who these will be.

A policy should be tailored to the particular needs of the workshop and community in which it is located. It should define what news and information will be released and what photographs allowed within the framework of legal and ethical responsibilities to the organization and the individual. In the interest of the workshop and the press, it is desirable to obtain a signed permit for photographs from persons to be photographed. This is not applicable in emergency situations of great general interest.

Interviews with workers should be allowed only with consent of the manager or director, and of the employee. Actually, well-prepared, restrained "human interest" stories are desirable in helping win public understanding of the program and stimulating pride on the part of employees and the identification and preparation of such stories for release should be encouraged.

Communications Media

All forms of communications should be considered in a planned public relations program.

These include: daily and weekly newspapers in the county and in the trade area; television stations; radio stations; leaflets and pamphlets which may be mailed direct or given out by speakers, or perhaps inserted in monthly mailings by board members in their business or by friends of the organization; transit company cards; billboards; window displays; person-to-person communication through open hours tours or visits by special groups.

Organize a speakers' bureau from the board of directors, workshop manager, public relations person, if there is one, or employees who have the interest, aptitude and poise for public appearances.

Provide members of the bureau with a fact sheet and perhaps a kit of sample products and flash cards. The flash cards can be made up of photographs and lettering or sketches for a nominal cost.

Advise other agencies, civic and educational groups that you can provide speakers, and suggest that at least two weeks' advance notice be given. A card, letter or call should go to the organization in the Spring or early Summer for planning of the following year's program.

Offer either a fairly full explanation thirty minutes or so in length, or a five-minute presentation. These can be effective for schools and colleges, luncheon clubs, civic groups, labor and management, and religious groups.

Many agencies produce film slides or short film sequences for the speakers' bureau. Often a member of the board has an interest in photography and can help with this, or some friend of the agency in the community will do so.

Plan all news and promotional activities well in advance. Contact press, radio or TV about 10 days or two weeks in advance of spot news events, and a month in advance of features. On newspapers, deal with the city editor or news editor, or the reporter assigned to your "beat." On TV and radio, go through the program director or news director. On outdoor advertising, contact the manager of the local or regional company well in advance of the time help is needed. Find out when their "off season" is, for more coverage.

If you mail in material to press, radio or TV, be sure it is accurate, concise and complete. Don't worry about the style of the "release"—professional writers will take care of that. As a test of completeness, check the copy to see that it answers the questions, "who, what, when, where, why and how," as applicable.

If possible, submit copy double spaced and typed with your name, address and phone number at the upper left corner—and keep a copy or two for your files.

Newsworthy Activities

News results from events which occur or are planned. Fires, accidents, etc., are examples of news which occurs. A series of newspaper feature articles on how the workshop serves the worker and the community, would be an example of planned news features.

In planning your program of publicity and information, make a list of short-term and long-range objectives. Plan the entire year's events well in advance. Study the calendar to see if workshop activities can be related to specific dates or to community events. One

example would be a series of stories, TV and radio programs before and during national "Employ the Physically Handicapped Week."

Other things which might be the basis for news stories or features might include: designate the "Handicapped Workers of the Year;" new products or contracts; expansion or changes in operations; appointment of staff personnel; human interest stories of outstanding individuals; advance stories on speeches to be given and, where possible, a summary for publication or broadcast afterward; adoption of a distinctive label or slogan to identify products; new equipment purchasd or contributed (if a donor agrees to a public announcement); training programs; annual meetings and elections; anniversaries, along with a report on accomplishments; open house programs and tours. The possibilities are almost unlimited.

Keep a "pressbook" as one basis for continually evaluating the effectiveness of the program—what received the best play, what was cut down, what was rejected. Check with members of the board on effect and effectiveness of stories. Develop a good program—and be proud to tell the world about it!

APPENDIX—1.

The following is an index of Regulations, Part 525, covering Employment of Handicapped Clients in Sheltered Workshops, pursuant to Sec. 14 of the Fair Labor Standards Act of 1938, as amended, Title 29, Chap. V, Code of Federal Regulations, Part 525.

RECORDS

PART 525

NOTE: Part A of this Section makes it mandatory that every Workshop shall keep, maintain, and have available for inspection a *record* of the nature of each client's handicap, and the records required under all applicable provisions of Part 516.
Part B of this Section requires each Workshop to *post a poster* in a conspicuous place in the Workshop where it may be observed readily by the handicapped clients and other workers in the Workshop.

PART 516

Subpart A

Section 516.2 (a)—Items Required

1. Name in full
2. Home address
3. Date of birth, if under 19
4. Occupation in which employed
5. Time of day and day of week on which employee workweek begins
6. a. Regular hourly rate of pay
   b. Basis on which wages are paid; hour, day, week
7. Hours worked each workday and total hours worked each work week
8. Total daily or weekly straight-time earnings
9. Total overtime excess compensation for workers
10. Total wages
11. Date of payment and pay period covered by payment

Subpart B

Section 516.20—Trainees or Handicapped Workers

Show on payroll a symbol or letter before each name indicating that the person is a "trainee" or "handicapped worker" employed under special certificate.

SECTION 516.21—Industrial Homeworkers

a. Name in full
b. Home address
c. Date of birth, if under 19
d. With respect to each lot of work
   1. Date which work given to worker, or date begun, and amount of work
   2. Date work turned in by worker, and amount
   3. Kind of articles and operations
   4. Piece rate paid
   5. Hours worked on each lot turned in (estimate if not known)
   6. Wages paid on each lot (total)
   7. Social Security deductions (if any)
   8. Date of wage payment and pay period covered by payment

e. With respect to each week
   1. Wages earned at regular piece rates
   2. Extra pay for overtime
   3. Total wages earned each week
   4. Social Security deductions (if any)

SECTION 516.5—Records to Be Preserved 3 Years

1. Pay roll records

SECTION 516.6—Records to Be Preserved 2 Years

1. Basic employment and earning records
2. Order, shipping, and billing records
3. Records of additions to or deductions from wages paid

APPENDIX—2

A REGIONAL ORGANIZATION FOR WORKSHOP PERSONNEL

With the proposed "Rehabilitation Act of 1959," introduced at the last session of Congress, and the increasing ratio of aging in the nation's population, more emphasis is indicated for the establishment, extension and improvement of services of workshops.

State legislation also is being enacted pertaining to workshops, some good and some probably not desirable.

In light of these trends, and to help workshop personnel perform their duties in the most efficient manner, proposals for establishment of a Regional Association of Sheltered Workshops, were approved.

The region involved would correspond to National Rehabilitation Association Region IV.

The motion, which was made, seconded and passed, follows:

"A committee be formed of one representative from Workshops in each state to consult with the National Association of Sheltered Workshops and Homework Programs, Inc., to form a Regional Workshop Association, and that the findings and recommendations be presented at the next Region IV NRA meeting in Atlanta, and that the committee be under Charles T. Higgins, chairman, and that the chairman select the representatives."

The National Association of Sheltered Workshops and Homebound Programs, Inc., has been established for 10 years and has some 162 members.

That Association has as its purpose the stimulation of interest in suitable program of employment and rehabilitation for the handicapped, and providing such programs, by:

(a) developing and establishing minimum standards for member agencies;

(b) providing for consultation, study, and exchange of ideas and experience among other agencies;

(c) providing a basis for unity and common action by member agencies;

(d) cooperating with other professional associations and agencies in the advancement of the rehabilitation of handicapped persons, and,

(e) encouraging and development of broader programs of rehabilitation among sheltered workshops and homework programs, through making rehabilitation services an integral part of the program and through coordination with the efforts of other agencies in the community offering such services.

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STOCK REDEMPTIONS AND LIQUIDATIONS OF CLOSE CORPORATIONS

By Laurence F. Casey
Attorney
New York, New York

The scope of stock redemptions and liquidation of close corporations is so broad that only current developments affecting a few important issues can be treated in a paper of this size. Some of the more vexing problems involve the rules for attribution of stock ownership, dividend risks to a withdrawing or continuing stockholder, valuation of assets distributed in liquidation and questions of income realization under Section 337. These, with certain peripheral topics are the areas on which the following discussion is focused. The subjects which are taken up separately at the corporate level and then at the shareholder level, are classified so far as possible according to whether the question occurs in a stock redemption, a partial liquidation or a complete liquidation. While a working knowledge of the revelant ground rules of Subchapter C of the Code is assumed, a brief outline of the principal attribution rules is supplied as a useful preliminary.

THE ATTRIBUTION OF STOCK OWNERSHIP RULES

A redemption of stock may qualify for capital gain treatment under any of three provisions of Section 302, i.e., as not being essentially equivalent to a dividend, or as constituting a disproportionate redemption, or as effecting a complete termination of the distributee's interest. The same tax result may ensue in certain partial liquidations, necessarily follows in any complete liquidation, and is permitted in certain redemptions of stock to pay estate taxes. A redemption is substantially disproportionate when the shareholder's holdings of common stock after distribution are less than 80% of his holdings before the distribution provided, in any event, that the shareholder owns less than 50% of the voting stock after the redemption. Here, as in the case of complete termination, the attribution rules in Section 318 may in many cases, bar capital gain treatment since, in many cases, the shareholder is considered as owning stock held by his spouse, children,

grandchildren and parents, (the family attribution rules) or by partnerships, corporations, trusts, or estates in which he has an interest[1] except that if the stockholder desires completely to sever his interest in a corporation in which his family are also interested, the family attribution rules are waived if the shareholder surrenders all interest other than as a creditor and reacquires no interest other than by bequest or inheritance for the ten ensuing years and provided further that the shareholder has not made or received a gift of stock of the corporation to or from a related person or entity within ten years prior to the distribution.[2]

Two recent developments typify the Service's rigorous application of the concepts underlying these rules, viz., that a family is to be treated as an economic unit and that beneficial rather than legal ownership of stock is the only yardstick for determining whether a stockholder has reduced, or entirely surrendered, his interest in the corporation. Rev. Rul. 59-119 holds that the family attribution rules will not be waived so as to qualify the redemption as a complete termination of interest because of an agreement that a member of the taxpayer's law firm be appointed to the board of directors in order to protect the taxpayer's interest as a creditor. Also, the Service has indicated that as a condition to such waiver of such rules, the required agreement of the taxpayer to notify the Service of any reacquisition of stock in such corporation must be timely filed with the taxpayer's return; any delinquency in such respect renders the family attribution rules automatically operative.[3] The uneven, almost capricious, operation of the attribution rules has been widely criticized, e.g. the fact that re-attribution or double attribution is permitted in some instances, but forbidden in others. For example, stock owned by a partner, or by a beneficiary of an estate is deemed to be owned by the partnership or estate and in turn is treated as owned proportionately by the partners or beneficiaries thereof; and, as a result, ownership of stock may be attributed to a person who has little or no economic connection with the actual owner of the stock. On the other hand, stock owned by the son-in-law of a deceased controlling stockholder would be attributed to the former's wife but not to her father's estate, rendering it possible, under given percentages of ownership, for the estate to effect a qualifying disproportionate redemption of its interest.

In contrast, where two brothers own, say, 70% and 30% respectively of a corporation, and the larger stockholder dies, bequeathing a one-fourth interest in a residuary trust to his brother, the estate could not, under existing law, qualify redemption of its stock either as a disproportionate redemption or a complete termination of interest since, following redemption of its stock, the estate would still own, constructively, more than 50% of the outstanding voting stock. But the redemption would qualify if, for example, the survisor was entitled to a specific

legacy, rather than a continuing interest and received payment thereof before the redemption took place.[4] Thus, the attribution rules place a high premium both on careful estate planning (including periodic review of buy-sell stockholders' agreements in family-owned businesses) and on careful administration.[5] In all probability, their vise-like grip has been an impelling factor in the many mergers of closely-held investment companies into regulated mutual funds which have been witnessed during the past year.[6]

There is some prospect of relief in pending legislation; specifically, "re-attribution" in the cases of partners, corporations and trusts would be eliminated and under the non-family attribution rules, a 5% limitation would be imposed respecting attribution from the individuals to the entity so as to eliminate *de minimis* computations.[7] there is, however, no suggestion for broadening existing relief against the family attribution rules to cover such cases as Rev. Rul. 59-119, supra. The writer adheres to the view expressed in 1955 that such prohibitions and the elaborate provisions against reacquisition of a stock interest are much too complicated and arbitrary to be justified by the underlying objectives.[8]

PROBLEMS AT SHAREHOLDER LEVEL

STOCK REDEMPTIONS

That a stock redemption may have a devastating impact upon the corporation involved is brought out in recent decisions subjecting corporations to the § 531 surtax for unreasonable accumulations where the accumulation was to finance, or to recoup the cost of, redemption of the stock of a 50% stockholder.[9] The penalty may apply not only to the accumulation years, but also to the redemption years,[10] and apparently the Service will assert the surtax not only for the years of accumulation and redemption but also for the years in which an installment pay out takes place.[11] The problem is sometimes generated by accumulations to discharge indebtedness incurred by a newly organized corporation in order to acquire the stock of another corporation which is then liquidated into the debtor corporation.[12] Obviously, any risks under § 531 must be appraised by the continuing stockholders in determining the price to be paid for the stock of a withdrawing stockholder; it would seem unrealistic to redeem such stock at book value if the redemption will result in charging the remaining interests with a 38½% surtax for all open years.

PARTIAL LIQUIDATION

Although the stockholders, rather than the corporation, are primarily affected by whether or not a transaction qualifies as a partial liquidation, the qualification tests are applied at the corporate level; hence the subject warrants discussion under this heading. The qualifying conditions are that the distribution (i) is one of a series in complete liquidation of the corporation[13] or (ii) is not essentially equivalent to a dividend, and (iii) is in redemption of a part of the stock pursuant to a plan, and (iv) occurs within the taxable year in which the plan is adopted or the succeeding taxable year.[14] Condition (ii) is satisfied if the distribution is attributable to cessation of a business conducted during the preceding 5 years and not acquired in a taxable transaction and the corporation, immediately after distribution, is actively engaged in a business conducted during the preceding 5 years and not acquired in a taxable transaction.[15] As succinctly stated in a private ruling "in order to qualify as a partial liquidation the distribution must result from the cessation of a business which has been actively conducted throughout the 5 years immediately prior to the distribution, or must result from a genuine contraction of the business of the corporation."[16] Practically speaking, a qualifying partial liquidation will not be attempted except on the basis of an advance favorable Service ruling which, incidentally, is not liberally granted.[17] Some pertinent questions encountered in applying for a ruling are: How much is to be paid out? In what form? When will the distribution be completed? As to the first question, neither the decisions nor the rulings policy afford any guidance or yardstick. If there is a genuine contraction, the distributable portion would seem to be the amount liberated by cessation of the particular activity. Thus, if a plant were sold for $100,000 and at the time was unencumbered but within the preceding, say, six months, the corporation had paid off a $60,000 mortgage, the distributable amount would seem to be $40,000 rather than $100,000. Secondly, the current rulings policy seems to require sale of assets at the corporate level and distribution of the proceeds;[18] but when a bona fide attempt to sell the assets is unsuccessful, distribution in kind has been permitted, subject to a warning that the *Court Holding Company*[19] doctrine may be invoked with regard to subsequent sales by recipient stockholders. Although § 336 is clear that the mere distribution in partial liquidation is not an income realization to the distributing corporation, gain on a subsequent sale may still be attributed to the corporation if the transaction was substantially negotiated at he corporate level because the statutory relief against such result provided in § 337 does not extend to sales following distributions in partial liquidation. As a general practice, any ruling under § 346 will reserve opinion as to the possible application of the § 531 surtax. Thirdly, any proceeds of sale may not

be used in the business but must be distributed as soon after the sale as reasonably possible.[20] Moreover, a favorable ruling would be vitiated, in all probability, if the corporation branched into another activity following a partial liquidation.[21]

It appears from the foregoing conditions that the partial liquidation route to capital gain treatment may involve burdensome restrictions on the corporation's future freedom of operation, a deterrent which would be avoided if the capital gain objective can be accomplished via a redemption of stock which qualifies under § 302. On the other hand, the attribution rules problem is not encountered in a partial liquidation, and pro rata distributions, proscribed under § 302, are permitted.

COMPLETE LIQUIDATION

Section 337 was enacted to relieve against possible double taxation of gain incident to winding up a corporate business and disposition of its assets. A common misconception seems to be that the section affords absolute and complete immunity against realization of income at the corporate level during the 12 months' liquidation period, although the statute is plainly restricted to gains from sales and exchanges within such period. Thus, rulings have been published to make clear that, § 337 notwithstanding, income is realized upon restoration of a bad debt reserve to surplus during the liquidation period,[22] and interest earned to the the date of sale by a cash basis taxpayer must be accrued and taxed in such year.[23] Gain is recognized unless the liquidation is genuine and final in character; thus, current policy is to deny § 337 treatment if controlling stockholders in the liquidating corporation hold or acquire more than a 50½ interest in a corporation which purchases the assets of the liquidating corporation.[24] Although § 337 precludes recognition of gain on installment receivables acquired in respect of an otherwise qualifying sale or exchange, this does not extend to previously acquired installment receivables;[25] hence, interesting factual issues remain open for litigation in the Court Holding Company area regarding such assets. Assume that following negotiations for sale of the corporate assets, including such receivables, the transaction takes the form of a sale of stock for cash to an acquiring corporation which promptly liquidates its new subsidiary. Since the liquidation would be under § 332, § 453 (d) (4) would preclude recognition of gain to the liquidated corporation, and since the receivables would take a stepped-up basis to the parent, the deferred gain on the receivables would wholly escape tax at the corporate level, a prospect which (depending upon the extent of prior negotiations) might impel the Service to attempt attribuion of such gain to the liquidated corporation under the Court Holding Company doctrine.[26].

There is no ready answer to the dilemma faced by those liquidating a corporation which is vulnerable to classification as a collapsible corporation under § 341, and thus ineligible for the benefits of § 337. The difficult decision is whether to have the corporation sell its assets in a § 337 liquidation rather than liquidate first and have the stockholders sell, the maximum cost in the first case being a double capital gains tax which would still leave a net recovery of 56.25½ to the stockholders, as opposed to a much smaller recovery to high bracket stockholders if the liquidation generates ordinary income to them under § 341.[27] Of course, liquidation first, then sale by the stockholders would be indicated if they are insulated against ordinary income under one of the escape clauses of § 341 (d) or (e).

Since liquidations under § 333 are not protected under § 337, care must be taken in such situations, where the corporation is indebted to its stockholders, so that distribution of the appreciated property will not be treated first as in payment of such indebtedness before being applied on the stock; any such disposition would generate taxable income to the corporation and equivalent dividend income to the stockholders.[28]

PROBLEMS AT THE CORPORATE LEVEL

STOCK REDEMPTIONS AND PARTIAL LIQUIDATION

In Rev. Rul. 59-240 the Service holds that, where circumstances change, a plan of complete liquidation may be modified to one of partial liquidation, the distributions qualifying for capital gain treatment under § 346. The stockholders' gain or loss is determined, without reference to the number of shares surrendered for redemption, according to the "relationship between the fair market value of the assets distributed at the time of distribution and the fair market value of the stock immediately before such distribution." In other words, the stock deemed to be surrendered (and consequently the amount of basis to be applied in determining gain or loss) will be in the same ratio to the total number of shares outstanding as the amount distributed bears to the total fair market value of the net assets of the corporation.[29]

Of more general interest is the abandonment of prior attempts to charge remaining stockholders with a constructive dividend based solely upon the fact of the redemption. Readers will recall the Service's acceptance of the *Holsey* decision to the effect that where the stockholder had merely an option, but was not obligated, to acquire the other stock, his transfer of such option to, and exercise thereof by, the corporation did not generate a dividend to the remaining stockholder.[30] Under a recent ruling, the test appears to be not whether the continu-

ing stockholder was obligated to make the purchase but whether he in reality purchased the stock and had the corporation make payment in his behalf.[31] The facts of the ruling were that under the terms of a stockholders' buy-sell agreement, the continuing stockholder was "personally obligated" either to purchase the stock owned by the estate of the deceased stockholder, or vote his own stock for liquidation. Noting that the decision to have the corporation rather than the remaining stockholder redeem the estate's stock was "for corporate business reasons',, the Service stated:

> "The corporate action in redeeming [the estate's stock] relieved [the remaining stockholder] of his personal obligation under the agreement. However, at no time did [the remaining stockholder] purchase the redeemed shares or obligate himself to do so; consequently, the instant case is distinguishable from the case of *Wall v. U.S.* ***."

Nevertheless, if in reality, the stock is purchased by the remaining stockholder and paid for by the corporation, such payment will be considered a constructive dividend to the remaining stockholder[32] It is to be hoped that this realistic approach will be reflected in administrative settlements, avoiding harassing litigation of situations where a direct redemption of stock was intended and, in substance, carried out. The moral is that buy-sell agreements should designate the corporation, rather than the remaining stockholder, as the party obligated to acquire the stock to be redeemed.

The foregoing ruling is but an application of the same realistic litigation policy which accepted the decision in the *Zenz* case, where a controlling stockholder sold a 50% interest to an outsider, the corporation thereafter redeeming the remaining 50% interest in which capital gain treatment was accorded to the distributions in redemption.[33] Although the principle is settled, the Service naturally remains free to litigate where the transaction actually carried out was not quite what the parties assert it to be.[34]

COMPLETE LIQUIDATIONS

Uncertainty still clouds the "liquidation-reincorporation" problem upon which, as of this writing, the courts have not yet passed in a case arising under the 1954 Code. The question arose in 1939 Code cases in connection with a liquidation preceded or followed by a transfer of operating assets to a new corporation, the latter's stock being distributed in pursuance of the plan of liquidation[35] The Regulations are clear that any such liquidation distribution under the 1954 Code may be treated as a dividend.[36]. Although the statement seems devoid of statutory support, it is somewhat strengthened by a statement in the 1954

Code Conference Committee Report.[37] Apparently, the Service will deny the dividend exclusion and credit the dividends received deduction in respect of such such "dividend."[38]

In contrast, definite standards are available for measuring gain upon liquidation where the distribution includes an assignment of rights to future income whether such rights are unconditional and fixed in amount or indefinite in amount and contingent in character; in any case the question is one of valuation. The subject is of broad interest because of the current tendency to relate the sale price of a going business at least in part to its future profits performance and because the benefits of an installment sale are not available to stockholders where the sale of assets is effected on a deferred payment basis at the corporate level. The Service is emphatic that even deferred payment contracts which are contingent in the sense of being geared to future profits must be valued when distributed in liquidation,[39] and while the amount thus determined is entitled to capital gain treatment, any amounts received in excess of the returned valuation will be taxable as ordinary income when received.[04]

SUMMARY

It appears that, at least for the present, we must continue to live with the attribution rules and other complexities of the corporate-stockholder tax relationship mentioned above inasmuch as any thoroughgoing simplification in this area seems only a mirage. The need for such reform, particularly in the liquidation area, and the failure of the present system from the standpoint of simplicity, equity and revenue protection, has been fully documented in testimony during the recent panel discussions before the Ways and Means Committee relating to "Broadening the Tax Base."[41] Anyone who has had substantial experience in this field must hope that the program of piling refinement upon refinement (witness the morass of Section 341) has run its course. Almost any degree of simplification would be welcome to the practitioner who now must expend an inordinate amount of time in factual and legal research in order to answer even elementary questions of clients. In short, therefore, there must be, if not reform, an end to constant tinkering with the present structure; otherwise, it will become so cumbersome, top-heavy, and incapable of administration, as to fall of its own weight.

REFERENCES

1 Rev. Ruls. 56-103, 58-111.

2. Rev. Rul. 59-233

3 See comment, Bulletin of ABA Section of Taxaction (April 1958) p. 30-31.

3-1 Unless limited by § 1.318-1 (b) (2).

4 Regs. § 1.318-3 (a).

5 See Rev. Rul. 57-387.

6 Business Week, Dec. 12, 1959 p. 119.

7 H.R. 4459, § 3.

8 Report of the Committee on Taxation, The Association of the Bar of the City of New York, (Feb. 1955) p. 16.

9 *Pelton Steel Casting Co.* 28 TC 153, aff'd 251 F2d 278 (7th Cir. 1958).

10 *Mountain State Steel Foundries, Inc.* T.C. Memo 1959-59.

11 *Barrett Hamilton Inc. v. U.S.* ———F. Supp. ——— (D.C. Ark. 1959)
Engineering Corp. of America v. *U.S.* ———F. Supp ——— (D.C. Ind. 1959).

12 Regs. § 1.537-2 (b) lists the following as a reasonable ground for accumulation:

> "(3) To provide for the retirement of bona fide indebtedness created in connection with the trade or business, such as the establishment of a sinking fund for the purpose of retiring bonds issued by the corporation in accordance with contract obligations incurred on issue;"

13 § 346 (a) (1).

14 § 346 (a) (2).

15 § 346 (b).

16 Cf. *Union Starch & Refining Co. Inc.* 31 TC 1041.

17 Cf. private ruling, May 9, 1958, 1958 CCH Fed. Tax Reports ¶ 6359 involving proposed distribution of General Motors Corp. stock by DuPont Co.

18 But. cf. Regs. § 1.346-1 (b).

19 *Comm'r* v. *Court Holding Co.* 324 U.S. 331 (1945).

20 Rev. Rul. 58-565.

21 For qualifving distributions, see *Standard Linen Service Inc.* 33 TC No. 1; Rev. Ruls. 59-240, 57-334 and 56-313.

22 Rev. Rul. 57-482. The Tax Court agrees: *West Seattle Nat'l Bank* 33 TC No. 40.

23 Rev. Rul. 59-120.

24 Cf. Rev. Rul. 56-541.

25 § 337 (b) (1).

26 Cf. *U.S.* v. *Cumberland Public Service Co.* 338 U.S. 451 (1950)

27 See generally, Rev. Rul. 58-241.

28 Cf. *Houston Natural Gas Corp.* v. *Comm'r.* 173 F2d 461 (5th Cir. 1949).

29 Rev. Ruls. 57-334 and 56-513.

30 *Holsey* v. *Comm'r.* 258 F2d 865 (3rd Cir. 1959); Rev. Rul. 58-614.

31 Rev. Rul. 59-286.

32 Ibid.

33 *Zenz* v. *Quinlivan* 213 F2d 914 (6th Cir. 1954); Rev. Ruls. 55-745 and 54-458.

34 Cf. *Television Industries Inc.* 32 TC No. 126.

35 See, e.g., *Liddon* v. *Comm'r* 230 F2d 304 (6th Cir. 1956) rev'g and remanding 22 TC 1220.

36 Regs. § 1.331-1 (c) provide

> "A liquidation which is followed by a transfer to another corporation of all or part of the assets of the liquidating corporation or which is preceded by such a transfer may, however, have the effect of the distribution of a dividend or of a transaction in which no loss is recognized and gain is recognized only to the extent of 'other property.' See sections 301 and 356."

37 The Conference Committee stated (Report No. 2543, 83d Cong. 2d Sess. p. 41):

> "The House bill in section 357 contained a provision dealing with a device whereby it has been attempted to withdraw corporate earnings at capital gains rates by distributing all the assets of a corporation in complete liquidation and promptly reincorporating the business assets. *** It is believed that this possibility can appropriately be disposed of by judicial decision or by regulation within the framework of the other provisions of the bill."

For a definitive analysis, see MacLean, Problems of Reincorporation and Related Proposals of the Subchapter C Advisory Group, 13 Tax Law Review, p. 407 (May 1958).

38 Cf. IRS private ruling, summarized in *U.S.* v. *E. I. DuPont de Nemours and Co.* 177 F. Supp. 1, 9 (D.C. Ill. 1959).

39 Rev. Rul. 58-402.

40 *Pat O'Brien* 25 TC 376; *Warren* v. *U.S.* 171 F. Supp. 846 (Ct. Cl. 1959); *Campagna* v. *U.S.* ———F. Supp. ——— (D.C. N.Y. 1959). But see *Miller* v. *U.S*, 262 F2d 584 (6th Cir. 1958), aff'g 155 F. Supp. 767 (D.C. Ky. 1951), ordinary income realized on collection of mortgage notes which had no ascertainable fair market value on distribution in liquidation.

41 For a proposed solution deserving serious study, see Lewis, A Proposed New Treatment for Corporate Distributions and Sales in Liquidation, Tax Revision Compendium, Vol. 3, p. 1643 (1959).

MUTUAL PROBLEMS OF THE TAX PRACTITIONER AND THE REVENUE AGENT

By R. Armand Costanzo
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When I received the invitation to participate in your program as luncheon speaker, it occurred to me that it might be appropriate during this portion of a tax clinic to turn from technical matters to problems of an administrative or operational nature in which you, as tax practitioners, become involved in your contacts with the Internal Revenue Service. As chief of the Audit Division, my principal concern and responsibilities are in the area of tax determinations. I should like, therefore, to discuss with you a few of the problems which arise between the tax agent and the tax practitioner in the determination of tax liabilities. The purpose of my remarks will not be to criticize but to give you the opportunity of becoming acquainted with matters which present difficulties and problems to the Internal Revenue Service. It is hoped that they will result in some measure of better understanding and improved relations—relations which I am proud to say are indeed excellent.

I like to refer to these problems which arise between tax agent and tax practitioner as mutual problems because I sincerely believe that in the field of taxation the aims and objectives of the two are the same—the determination of correct tax liability under the law. Neither the agent nor the practitioner can in good conscience seek an undue tax advantage for the government or the taxpayer. In the Internal Revenue Service we try to saturate our office auditors, our field examiners and particularly our conferees with the principle that in determining tax liability their responsibilities to the taxpayers are equally as great as their responsibilities to the government. Our purpose is to render a public service to the best of our ability and that requires the full protection of the interests of the taxpayers.

The role of the practitioner in the administration of the tax laws is the same as that of the tax agent—the determination of correct tax

liability. While he may and should determine for his client the lowest tax possible, that tax should be a legally correct tax liability. It should represent the tax burden intended by the taxing statutes. This calls for professional ethics and conduct of the highest order; and Treasury Department Circular No. 230 which sets forth rules governing practice before the Internal Revenue Service requires such conduct of all enrolled practitioners.

Subpart B of Circular No. 230 provides that in their contacts with the Internal Revenue Service enrolled practitioners should conduct themselves in accordance with the recognized ethical standards applicable to attorneys, public accountants and certified public accountants. The Circular specifically provides that the enrolled tax practitioner must exercise due diligence in the preparation, approval and filing of tax returns, documents, affidavits and other papers relating to Internal Revenue Service matters. It further provides that the enrolled tax practitioner must not knowingly or through carelessness make misrepresentations to the Internal Revenue Service or to his clients with respect to any matters administered by the Internal Revenue Service. And finally, Circular 230 provides that an enrolled practitioner who knows that his client has failed to comply with some provision of the Internal Revenue Code is responsible for advising his client of the noncompliance.

Having established the mutual responsibilities of the tax agent and the tax practitioner, let us now take a look at some problems which arise in the administration of tax laws.

OFFICE AUDIT OPERATIONS

All of you know that the Internal Revenue Service relies principally upon the examination of tax returns for the enforcement of the tax laws. The total number of returns filed annually is so large that only a very small percentage can be examined. Consequently, in order to obtain the greatest coverage possible for necessary enforcement, there have been established in every Internal Revenue District, Office Audit Groups consisting of 10 to 15 auditors and a group supervisor. These groups make what we call "mass audits" of the less complicated returns. By correspondence with the taxpayer or by personal interview with the taxpayer at the Internal Revenue Service Office, a large number of returns can be examined with a minimum expenditure of time. Generally, the returns examined by these mass audit techniques do not contain difficult accounting or tax law problems and the amount of tax involved in any one return is relatively small. For these reasons, perhaps, the importance of the office audit operations is not fully appreciated or understood by many tax practitioners. As a consequence, they feel very often that the auditor is wasting his time, the time of the

practitioner and the time of the taxpayer in attempting to verify the correctness of exemptions and statutory deductions such as contributions, taxes and interest which at best can have only a nominal tax consequence. Similarly, the office auditor sometimes loses sight, I'm afraid, of the importance to the small taxpayer of the relatively small amount of tax involved. This matter, I can assure you, has our constant and never-ending attention. The Service is mindful of its responsibility to these taxpayers, especially those who do not have competent tax counsel.

The necessity for and the importance of the office audit operations become astoundingly clear when we analyze the 60,000,000 income tax returns which are filed annually by individual taxpayers. Total income tax of approximately 34 billion dollars was reported on the individual returns filed for the year 1957. Of the total returns for that year, 46,500,000 were taxable returns on which more than 127,000,000 exemptions were claimed. Those exemptions represented a minimum of $15,000,000,000 in tax liability. In addition, 41,000,000 exemptions were claimed on 13,000,000 non-taxable returns. This analysis alone points up rather vividly the necessity for the enforcement activities carried on through the Office Audit operations and their importance to the revenue. It also points up the need for the practitioner to exercise due diligence in listing deductions for exemptions on returns which they prepare. Examination of returns to maintain a high degree of taxpayer compliance in this tax area is essential to the survival of our self-assessment system of taxation. An average of one unallowable exemption per taxable return could deny the Treasury more than 5 billion dollars in revenue. I can tell you that many returns contain several questionable exemptions.

In making audit examinations we must call upon the taxpayer or his representative to furnish us reasonable proof of the correctness of the exemptions or deductions claimed on tax returns. Here we find ourselves up against a tough public relations problem. Some taxpayers resent the fact that the exemptions or deductions are questioned and cannot understand why we do so. Some are unwilling to furnish anything more than general self-serving statements and cannot understand the need for specific facts and figures. And there are those taxpayers who, although willing, are not capable of compiling and submitting the required information. In none of these cases do we want to disallow any exemptions or deductions for lack of proof if the taxpavers are entitled to them under the law. Yet it is essential that we protect the revenue in this important category of returns.

Sometimes even our relations with practitioners are taxed. The auditor feels that the practitioner is uncooperative when he does not furnish the detailed proof requested, while the practitioner feels that the auditor is unreasonable in his demands for proof. The problem of

what is reasonable proof in the absence of documentary evidence in office audit cases is a difficult one. The answer and the solution must be found in each individual case. This can be done if there is a clear understanding by the tax practitioner and the office auditor of the purpose and importance of office audit examinations.

There is one request that I should like to make with respect to office audit examinations; and that is that you do not ask that returns being examined by correspondence from the Birmingham Office be referred to a revenue agent in one of the zone offices if the case can be concluded through correspondence. This happens on occasions when a tax practitioner is called in on a case while a correspondence audit is in progress. Transfers of this type delay unnecessarily the completion of the revenue agent's regularly assigned work and hence do not serve the best interests of the taxpayers and of the Service. Transfers should be requested only when cases cannot be concluded readily by correspondence.

INFORMAL CONFERENCE

One of the major problems in the administration of federal tax laws is the informal conference function. Here we have procedures established primarily for the benefit of the taxpayer and tax practitioner not being fully accepted by them. The basic procedures of the present informal conference function were established in 1952, and they were designed to give the taxpayers greater opportunity to reach an early agreement or unagreed issues arising from examinations made by Internal Revenue Agents. It was felt that disputes could be settled more rapidly (1) by eliminating the former requirement of a formal written protest; (2) by having the unagreed issues heard by the examining officer's group supervisor, and (3) by creating an atmosphere of informality which would be conducive to settlements. The record shows that the informal conference procedures have been effective and have produced all of the good things that were intended—a high percentage of disputed issues have been settled promptly, without extended litigation; the taxpayer has been relieved of the burden of filing lengthy briefs, and the time required to obtain a hearing has been shortened considerably.

Still the informal conference procedure is looked on with some misgivings by a substantial number of attorneys and accountants. I suppose the reason for this is one of logic. They undoubtedly reason that a group supervisor, because of his supervisory relationship to the revenue agent, cannot conduct a fair and impartial conference. This attitude seems to prevail among the tax practitioners in this area although there are no indications of hostility toward the informal conference function. We feel that the informal conference is functioning very well in the Birmingham District.

The Internal Revenue Service is not unmindful, however, of the views of taxpayers and taxpayer representatives. It responded to their views in September 1956 by establishing the position of informal conference coordinator at the district level. The coordinator controls and directs the informal conference function. In addition he holds some informal conferences himself on the most complex issues. The group supervisors, however, continue to hold the informal conference on most cases.

All aspects of the informal conference function are under constant study by the Internal Revenue Service and new procedures are in operation on an experimental basis in several district offices. From these studies will evolve procedures which, I am sure, will be more acceptable to taxpayers and their representatives. Meanwhile, I would urge you to "keep on keeping on" (as Bibb Graves would have put it) using the informal conference procedures as they are. You will continue to find the results to be satisfactory as you have in the past. We are fortunate in having group supervisors who are competent and conscientious. They will not hesitate to apply the law as they see it, irrespective of the tax consequence. Congress enacts the tax laws. Our concern is only in administering them—whether they be good laws or bad laws.

DETERMINATION LETTERS

Since he took office about a year ago, Commissioner of Internal Revenue Dana Latham has made numerous talks at tax clinics and meetings of attorneys and accountants. In practically all of his talks Latham has commented on the problems of the Internal Revenue Service in the area of tax rulings. The sheer number of requests for rulings —more than 40,000 annually—presents a major problem because of the inherent complexities in this field and the deliberateness with which the Service must proceed. While he has taken steps to eliminate the chief counsel's legal review of minor rulings and to establish a more definite area in which the Internal Revenue Service will not rule, Commissioner Latham has also found it necessary to call upon tax practitioners to help the Service cope with the rulings problem. One of the points which he has emphasized applies equally to the area of determination letters which are issued by the District Directors. The basic difference between rulings issued by the national office and determination letters issued by district directors is that rulings are issued with respect to proposed transactions while determination letters are issued on completed transactions. In either case there has been failure on the part of practitioners to observe the requirements laid down by Revenue Ruling 54-172 in requesting rulings or determinations, thus contributing to delays. On June 26, 1959, the Internal Revenue Service issued Revenue Procedure 59-22 advising practitioners that requests for rulings

which do not comply with all provisions of Revenue Ruling 54-172 will be returned with a form letter pointing out the requirements which have not been met and stating that the case has been closed, subject to reopening if and when the requirements of Revenue Ruling 54-172 are met.

There are three principal requirements in Revenue Ruling 54-172 which tax practitioners should make certain they comply with in requesting rulings or determination letters. First, the request must be signed by the taxpayer or his duly authorized representative. If the request is signed by the taxpayer's representative, the conference and practice requirements must be observed and a power of attorney must be submitted with the request. In the absence of a power of attorney, request signed by the representative cannot be acted upon. The second requirement is that a complete statement of facts, together with copies of pertinent contracts, deeds, wills, agreements, trust indentures or other documents must be submitted with the request. The third requirement is that if the taxpayer contends for a particular determination or ruling, he must explain the grounds for his contention and cite the relevant authorities on which he relies. A memorandum of relevant authorities may be required by the Service in any case in which it is considered essential to a determination of the issue.

While the volume of requests for determination letters is not a problem in this district, the requests do not always meet all the requirements of Revenue Ruling 54-172. We solicit your cooperation in overcoming those deficiencies. A separate reprint of Revenue Ruling 54-172 is available in the Birmingham Office and we shall be happy to furnish you a copy upon request.

PROMPT AUDITS

One of the major objectives of the Internal Revenue Service's audit program is the completion of the examination of all income tax returns within twenty months after they are filed. We believe every taxpayer needs to know where he stands tax-wise as soon as possible. For that reason, we have established this 20-month examination period. In years past it was not unusual for a taxpayer, almost three years after he had filed his income tax return, to learn that the Internal Revenue Service planned to examine his return and that a consent extending the statute of limitations would be needed to give the Service the necessary time to make the examination. His tax status remained unresolved for many years, even beyond the normal three-year period of limitation.

The cooperation of all tax practitioners is needed and certainly will be appreciated for the accomplishment of this worthy objective. There are some specific things you can do to help us. You can help us by making available promptly to the examining officers all non-

privileged information and records which they call for in the examination of tax returns. Frankly, examining officers sometimes experience apparently unjustified delays and difficulties in obtaining needed information and, occasionally, they must go so far as to issue a summons to obtain information and records which should be turned over to them voluntarily. Section 10.22 of Circular 230 establishes as a prerequisite for continued enrollment to practice before the Internal Revenue Service the submission of all non-privileged information and records requested by an employee of the Internal Revenue Service unless the practitioner has reasonable grounds to believe that the request may be unlawful. All practitioners should be familiar with this provision of Circular 230 and adhere to it.

There are times when practitioners will not discuss the findings of the revenue agent with him, and will neither agree nor disagree with his findings. This results in delays and informal conferences which otherwise might not have been necessary. It is my view that the most opportune time for a practitioner to enter a case is while the examination is being held. All of the facts should be made available to the examining officer and an earnest effort should be made to reach an agreement with him. The withholding of facts from an examining officer until the time of the conference also prolongs the settlement of a tax case and frequently necessitates an additional expenditure of investigative time to verify the facts which should have been brought to the attention of the revenue agent during the examination.

One other way in which you can help us in carrying out our prompt audit program is by careful preparation of your case before appearing for the informal conference. Lack of preparation has resulted in additional conferences and unnecessary delays.

Unjustified requests for extensions of time for filing protests upon receipt of preliminary notices of deficiency also prolong the time during which the taxpayers' tax status remains unsettled. While we are more than happy to grant extensions of time for filing protests where good and sufficient reasons exist, we cannot grant them automatically in instances where the extensions are not justified. Not all practitioners give reasons why they desire extensions. We would appreciate a concise and complete statement of fact with all requests for extensions of time for filing protests.

Sometimes we receive requests for extensions with respect to statutory notices of deficiency. Of course, such extensions cannot be granted and petitions with The Tax Court must be filed during the 90-day period specified in the notice.

While we are on the subject of extensions, I should like to mention this one thing. Our pension trust officer receives many calls from tax practitioners inquiring whether they should obtain extensions of time for filing income tax returns while they are waiting determination

letters on the qualification of pension trust plans. Under such circumstances, the tax returns should be filed timely and there is no reason why extensions should be requested. Incidentally, it is my understanding that far too many extensions for filing returns have been received and granted in past years, and that the reins will be tightened in 1960. Returns which have heretofore been processed in district offices will henceforth be processed by high speed machines in Service Centers. Consequently, it will be necessary that returns be filed timely so that the processing channels can be kept full at all times during the filing period.

POWERS OF ATTORNEY

The tax agent is ever mindful of the highly confidential nature of the information on tax returns and in the files of the Internal Revenue Service. He knows that the unauthorized disclosure of such information is illegal and that severe penalties are provided by the Internal Revenue Code for those who release confidential information without proper authorization. He is, therefore, understandably concerned and troubled when a practitioner, who is enrolled to practice before the Internal Revenue Service, enters into tax cases or other Internal Revenue matters without obtaining a power of attorney from his client. While we dislike to refuse to deal with an enrolled practitioner before he obtains a power of attorney from his client, in some instances it is absolutely necessary to do so in order to remove the possibility of making unlawful disclosures.

Powers of attorney are especially important in matters handled by correspondence and, in the absence of a power of attorney, an Internal Revenue Service employee may not correspond with practitioners on matters concerning a particular taxpayer.

Powers of attorney should always be submitted in duplicate as a minimum. One copy is needed for the power of attorney file and one for association with the administrative file concerning the particular tax matter involved. In income tax cases involving more than one tax return an additional copy should be submitted for each additional tax return.

UNREPORTED INTEREST AND DIVIDENDS

During the next tax filing season you will hear a great deal about taxable interest and dividends. It is well known that large amounts of interest and dividends are not reported for one reason or another. It has been estimated that $1.5 billion of dividends currently received by United States taxpayers are not accounted by them on their returns. Interest earned on bank savings and interest received on Government "E" Bonds are being omitted from tax returns in substantial amounts.

Some estimates run as high as $3.5 billion dollars. In preparation of tax returns, practitioners can render a valuable service by inquiring into these items. The Internal Revenue Service is aware of the problems involved in this area and is taking steps to acquaint taxpayers with their obligations to report and pay the appropriate tax on dividend and interest income.

TRAVEL AND ENTERTAINMENT EXPENSES

Another problem which I should like to mention is the problem of deductions for travel and entertainment expenses. This is an area in which it must be admitted that some reprehensible practices and abuses exist, although the frequency and significance of the abuses perhaps have been exaggerated. The problem has received widespread publicity in newspapers and magazines and on radio and television. While the loss of revenue through these abuses is believed to be rather substantial and gives us concern, a more important consideration is the public confidence in the equity of our taxing system and the willingness and ability of the Internal Revenue Service to enforce our tax laws effectively and fairly among all taxpayers.

The United States is one of the very few nations which is able to administer its tax laws on the assumption that the great majority of taxpayers will pay their taxes voluntarily and honestly. We have achieved a high degree of voluntary compliance. This voluntary compliance is based on the assumption by the average taxpayer that most other taxpayers are also paying their fair share of taxes, and that those who are not will be detected and punished.

Some of the abuses to which I have reference and which are deeply resented by those who pay their taxes voluntarily and fully are: (1) purported business trips and conventions which are in essence vacations at resort hotels, hunting lodges, and other vacation spots; (2) lavish entertainment which is really personal rather than business in nature; (3) the ownership and operation of yachts, airplanes, beach homes and automobiles for the personal use of company officials; and (4) the purchase of articles with company funds for the personal use of company officials.

Public resentment of these practices is mounting and some type of drastic legislation, I think, can be expected unless they are curbed. As tax counsel for many businessmen and businesses, you can render a real public service by calling attention to the non-deductibility of these personal expenses and by listing on tax returns only those travel and entertainment expenses which are truly business in nature.

Commissioner Latham has directed revenue agents to pay increased attention to returns claiming business travel and entertainment expenses. They will be disallowing those expenses which are not busi-

ness related and which are thinly-disguised vacation trips. Similarly, they will be including in the taxable income of company executives, expenditures for their personal benefit which are in fact additional compensation or dividends.

CONCLUSION

In conclusion let me reiterate that nothing which I have said should be considered as criticism. I feel that our tax agents are doing a good job and I am equally convinced that you tax practitioners are doing an excellent job. Nevertheless, all of us can help improve the effectiveness of the unique voluntary self-assessment system of taxation from which must come the revenue needed to carry on the governmental functions of this great country of ours.

NON-QUALIFIED DEFERRED COMPENSATION— FACT OR FICTION

By J. W. Cocke
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Jackson, Mississippi

The subject of deferred compensation has probably generated more articles and led to more discussion than any other limited area of tax law. More "experts" have become "self created" and have expressed more opinions with less case authority than in any comparable area of taxation. Perhaps this in itself points up the fact that with inflation and confiscatory progressive rate of taxation interest is generated by man's innate desire to take care of himself and provide for his own future.

This interest also arises because it is sometimes possible to convert a portion of income currently earned into capital gain, in the case of qualified plans, or to postpone the tax to such a time when it would be reasonable to assume that the taxpayer will be in a lower tax bracket. Like so many areas of taxation that become a subject of barber shop conversation and presented as something new "that everyone wants some of" this subject is far from new and methods of deferring the tax bite were devised at a time when they had tax rates that now from this distance look like a dream.

I think that any reasonably honest person would admit that here again we find that tax laws are being used to achieve some desired social objective. That is, of course, if you can fit your needs into a qualified plan under Section 401-4. But if you are a nonconformist, you find that the way is made a little rough; that the employer may have to forego deductions to prevent immediate tax to the employee; that you may have to leave him only a hope that the employer will be making enough money at the time of his retirement to pay the anticipated funds.

Since it seems that deductions are found closest to the heart of a taxpayer, you might ask why not use something deductible? There can be many reasons for not adopting a qualified plan. Quite often this type plan will not afford the desired benefits, and, while it is seemingly socially undesirable to discriminate, you may be motivated

by no desire except to discriminate in favor of higher paid executives. Seldom do we find that a qualified plan will adequately compensate an employee who joined a firm late in life. And there are even cases where because of the need for working capital, or because of the expense entailed in a general nondiscriminatory plan, the smaller business simply cannot afford such a plan.

Now, generally speaking, how do we go about formulating a nonqualified plan? At this point it might be well to state that a qualified plan must qualify at all times and if not amended before the last day of any year to comply with administrative rulings or legislative changes you may find you automatically have a nonqualified plan. Is the nonqualified plan to be funded or nonfunded? The funded plan is excellent if you want to assure the employee that at the desired time he will find his retirement funds available; however, that is just about its only claim to excellence. Attempts to underwrite unqualified plans have frequently resulted in tax disaster. While on the other hand, the nonfunded plan is quite often only a declaration of intent or the expression of the hope that the employer will be making enough money at the retirement of the employee so that he can pay the employee; that is, if said employee has successfully navigated the conditions precedent, as well as subsequent, to a contract that is executory in nature.

FUNDED PLANS

Prior to the revenue Act of 1942, it was possible for employers to enter into funded deferred compensation agreements with key employees, which would defer tax on the employees' income and yet permit the employer a current deduction. Now such an arrangement will not qualify as a nondiscriminatory plan under Section 401 (a).

If the arrangement is funded either by the purchase of an annuity or a contribution to a nonqualified trust and the employees' rights are nonforfeitable at the time of the contribution, the employee will be taxed in the year of contribution although he will receive no cash until a later year and even though he has no right of possession, cannot pledge nor has the right to commute his interest, I.R.C. Section 402 (b), 403 (b). The employer obtains a deduction in the year of contribution.

If the arrangement provides that the employee's rights are forfeitable at the time of the contribution, he is not taxed in the year of contribution nor in the year when his rights become nonforfeitable. He is taxed upon the receipt of cash payments, except in the case of an annuity, and the employer is never entitled to a deduction. However, in July 1959, the Court of Claims in the Russell Manfacturing Co. Case stated that when the amounts were eventually paid by the trust, they were deductible by the employer because then the recipient employees' rights to the payment became nonforfeitable. The regulations

to the contrary, Reg. 111, Sec. 29.23 (p) -11, are not in accord with the clear provisions of Code Sec. 23 (p) (1) (D). The current regulations are found at Reg. Sec. 1.404 (a) -12. On October 23, 1959, in Technical Information Release No. 182 the Internal Revenue Service announced it will not follow the Russell decision as they take the position that the finding was clearly contrary to the regulations above cited.

In Morse v Commissioner, 202 F (2d) 69, affirming 9 TC 1244, we find a different twist applied to a funded contract involving forfeitable and nonforfeitable rights. Morse was an employee of the Chrysler Corporation, who had reached the age of 70 and could not qualify for the company pension plan. There were three people in this category and the board of directors by formal action decided to purchase annuities in 1941 to pay these employees $250.00 per month on retirement. In 1943, Morse retired and in that year received $3,000.00 in monthly payments from a contract that provided by the endorsements that it was not transferable, subject to commutation, anticipation or encumbrance or in any way subject to the debts of the annuitant or to legal process except as otherwise provided by law. The Commissioner claimed that Morse received income in 1941 and 1943 approximating twice the amount of the annuity but then conceded that Morse only received income in 1943 equal to the cost of the annuity less the payments received by the Chrysler Corporation. The Tax Court held the Commissioner was right and Court of Appeals for the Second Circuit affirmed.

The Tax Court reasoned that when the corporation endorsed the policy in 1943 it then in effect made a contribution in 1943, and that Morse was taxable in 1943 because of the nonforfeitable rights in the annual payment assigned to him in that year. The only contribution ever made under this contract was in 1941 and Section 22 (b) (2) (B) of the Code specifically provided that only the amount contributed by the employer for an annuity on or after the time that the employees' rights become nonforfeitable, shall be included in income of the employee in the year in which the amount is contributed and in this case there were no contributions after the year 1941.

Both courts disregarded the Code Section and the Court of Appeals stated that this was not a case of forfeitable rights changing to nonforfeitable, but rather that Morse had no rights at all until 1943 and that the rights then acquired were nonforfeitable from the start. Therefore, it would seem that Chrysler should have had deduction in 1941, but under Code Section 23 (P) (1)-D the contribution was not deductible, nor was it deductible in 1943 because it was not paid in that year.

The Court of Appeals held that even if Section 22 (b) (2) (B) had not applied to Morse, the annuitant would be taxable under Section 22 (a) on the basis of economic benefit. If you would grant that this

was true it would be hard to see how Morse would be taxable on a value in excess of the fair market value at the date of acquisition.

It would appear that Morse would not have been taxable if the corporation had retained the policy, collected the payments and turned them over to the annuitant. Morse would have paid tax on the annual payments and the company would have been allowed a deduction, or, if it would be reasoned that Morse received any suggestion of forfeitable rights in 1941, the only difference would have been that the corporation would lose a deduction that had never been deducted.

While the Morse case has been with us for quite a while, it is an excellent example of the tragic results that can obtain without careful planning and the use of proper form and that these consequences flowed without Morse having anything to do with the plan.

It would appear that the only place an annuity can have in a funded plan is where the annuity is only security, or where the employer holds it as an investment. However, in case the company encountered financial difficulties, the employee would only have the status of a general creditor.

While we are on the subject of annuities it would be well to state that Code Section 402 (a) (2) provides capital gain treatment to the payment within one taxable year of the total amount received on account of death or separation from service under a qualified plan, but distributions from plans or trust that do not comply with Section 401 (a) or 501 (a) do not receive long term capital gain treatment, as all distributions from nonqualified trusts and plans deferring the receipt of compensation are taxed under rules concerning annuities.

UNFUNDED PLANS

Most practitioners insist that deferred compensation agreements must be executory on the part of the employee both before and after retirement, and, at the same time must not be funded.

If not funded what protection is afforded the employee? What assurance is provided that the employer will have the funds to meet these obligations? Quite often the only recourse will be to the courts.

The whole theory of unfunded plans hinges on the premise that there is no taxable value in a mere contract right to receive a later payment from an employer incapable of present evaluation. Another theory would seem more logical in that an employee who may not compete and who must render consulting or advisory services after retirement has no fixed or determined right upon which a tax could be imposed; however, the present state of the law in this regard is seemingly fluid and the only certainty in this area is its uncertainty.

In plans of this type the conditions precedent and subsequent must have real meaning and are in no instance to be considered mere verbage

LAURENCE F. CASEY

Member of New York State, New York City and American Bar Association; admitted to Bar in Pennsylvania; Member of Committee on Taxation of New York City Bar Association, formerly Chief Counsel, Pennsylvania Department of Revenue; formerly Special Attorney, Office of the Chief Counsel; United States Bureau of Internal Revenue; Lecturer at New York School of Law; author, *Federal Tax Practice,* published by Callaghan and Company; frequent lecturer at tax clinics and institutes; has written articles for tax periodicals; graduated from Georgetown University and University of Pennsylvania Law School; partner: Brown, Wood, Fuller, Caldwell, and Ivey, Attorneys, New York City.

PAUL D. YAGER

Certified Public Accountant; graduate of Ohio State University with honors in accounting; held position as Manager, Tax Department, Lybrand, Ross Brothers and Montgomery, Detroit; member of Beta Alpha Psi, Beta Gamma Sigma, American Institute of CPA's, Michigan Society of CPA's, District of Columbia Institute of CPA's, National Association of Accountants, Federal Taxation Committee of the American Institute of CPA's, and U.S. Chamber of Commerce; lecturer at New York University Tax Institute, Tennessee Annual Institute on Federal Taxation, Ohio State Annual Accounting Institute and various other tax meetings; contributor to many technical periodicals; partner: Lybrand, Ross Brothers and Montgomery, Accountants, Washington, D.C.

R. ARMAND COSTANZO

Presently Chief, Audit Division, Internal Revenue Service, Alabama District; has had 18 years' service and experience in Internal Revenue Service; has held responsible positions in Statistical Department, as Deputy Collector, Office Auditor, Revenue Agent, Reviewer and Conferee; was Chairman of Section 722 Field Committee of Internal Revenue Service; native of Alabama; educated in the public schools of North Alabama; graduated *magna cum laude* from Birmingham Southern College; member of Phi Beta Kappa; received degree in economics and business administration; attended schools sponsored by Tennessee Coal and Iron Company; and has held and holds various offices and positions of leadership in numerous civic groups.

FLEMING BOMAR

Member of Florida State, Washington, D.C., and American Bar Association; Chairman of Committee on Pensions and Deferred Compensation of the American Bar Association; has lectured on Pensions and Profit Sharing Plans at New York University Tax Institute, University of Texas, University of Virginia and other tax clinics and meetings; Author of *Handbook for Pension Planning* and *Pensions and Profit Sharing,* both published by Bureau of National Affairs; has written articles for professional journals; graduated from Wofford College and Duke University; member of Order of the Coif; partner, Irvings, Phillips and Barker, Attorneys, Washington, D.C.

FEDERAL T

8:30- 9:30 REGISTRATION
Lobby, Music and Speech Building

9:30-12:50 FRIDAY MORNING SESSION, November 20,
University Theatre, Music and Speech Building

Presiding:
Vivian G. Johnston, Jr., Attorney, Hand, Arendall, Bedsole, Greaves & Johnston; Mobile;
Chairman, Joint Tax Clinic Committee

FORMAL OPENING

INVOCATION
Reverend Emmet Gribbin, Jr., Instructor in Religion, and Director, Student Episcopal Center, University of Alabama

WELCOME
Dr. Frank A. Rose, President, University of Alabama

ANNOUNCEMENTS

"Stock Redemptions and Liquidations of Close Corporations?"

Speaker:
Laurence F. Casey, Attorney, New York, N.Y.

RECESS

"Subchapter S—Blessing or Bane?"

Speaker:
Paul D. Yager, CPA, Washington, D. C.

QUESTIONS AND ANSWERS

1:00 LUNCHEON—Union Ballroom

Presiding:
Winston Brooke, CPA, Anniston

"Mutual Problems of the Tax Practitioner and the Revenue Agent"

Speaker:
R. Armand Costanzo, Chief, Audit Division, Alabama District, Internal Revenue Service

Annual

AX CLINIC

3:00- 5:30 FRIDAY AFTERNOON SESSION

Presiding:
E. M. Friend, Jr., Attorney, Sirote, Permutt, Friend & Friend, Birmingham, Alabama

"Pensions and Profit-Sharing Plans"
Speaker:
Fleming Bomar, Attorney, Washington, D. C.

"Non-Qualified Deferred Compensation—Fact or Fiction"
Speaker:
J. W. Cocke, CPA, Jackson, Mississippi

QUESTIONS AND ANSWERS

6:30- 7:30 HOSPITALITY HOUR
Rose Room, Hotel Stafford

Hosts:
Alabama Bar Association and Alabama Society of Certified Public Accountants

7:30 BUFFET DINNER
Cherokee Ballroom, Hotel Stafford

Presiding:
J. Kirkman Jackson, Attorney, Birmingham

"Important Differences in Alabama and Federal Taxation of Income"
Speaker:
Harry H. Haden, Montgomery, Commissioner of Revenue, Alabama State Department of Revenue

9:30-12:00 SATURDAY MORNING SESSION, November 21, University Theatre, Music and Speech Building

Presiding:
Robert L. Godwin, Jr., CPA, Robert L. Godwin & Associates, Mobile

ANNOUNCEMENTS

"Estate Analysis"
Speaker:
Lawrence G. Knecht, Attorney, Cleveland, Ohio

"Income Taxation of Trusts and Estates"
Speaker:
Alfred T. Capps, Northern Trust Company, Chicago, Illinois

QUESTIONS AND ANSWERS

12:15 LUNCHEON—Union Ballroom

2:00 Alabama vs. Memphis State, Denny Stadium

J. W. COCKE

Certified Public Accountant, Jackson, Mississippi; Past President, Mississippi Society of Certified Accountants; past member of Council of American Institute of Accountants; past member, Executive Committee of Southern States Accountants Conference; Past President, Estate Planning Council of Mississippi; member of Mississippi State Bar.

HARRY H. HADEN

Alabama Commissioner of Revenue; formerly a member of the University of Alabama Law School faculty; member of Alabama and Virginia State Bar Associations; practiced in Virginia from 1931 until he moved to Alabama; visiting Professor at University of Virginia in 1949; a recognized authority on State and Local Taxation, he has lectured widely, has written numerous articles for the "University of Alabama Law Review" and other leading periodicals on tax-subjects and is the author of a book, *Fundamentals of Federal Taxation,* soon to be published by the Michie Company; graduated from the University of Virginia, LL.B. and LL.M. in Taxation and later engaged in graduate work at the University of Alabama.

LAWRENCE G. KNECHT

Member of Ohio State Bar and American Bar Associations; member of Estate and Tax Planning Committee of the American Bar Association; for many years has been Special Counsel for the trust companies of Ohio; has lectured on estate analysis and tax planning to accountants, attorneys and life underwriters and trust officers throughout the country, including institutes and clinics at the Universities of Wisconsin, Connecticut, Florida, Ohio State, Western Reserve University, and at UCLA; has written many articles for professional journals; Director of the Powers System of Estate Analysis; graduated from University of Akron and Western Reserve University Law School; partner: Kiefer, Waterworth, Hunter, and Knecht, Attorneys, Cleveland, Ohio.

ALFRED T. CAPPS

Vice-President of the Northern Trust Company of Chicago, Illinois, and in charge of the Tax Division; member of the Illinois State and American Bar Associations; lectured at the University of Iowa, Tulane University Tax Clinic and at Chicago Bar Association and Illinois Bar Association meetings; has written articles on taxation of trusts and estate for the "University of Illinois Law Forum," "Illinois Bar Journal," and "University of Iowa Law Review"; graduated from Illinois College and received Doctor of Laws degree from University of Chicago Law School.

or meaningless formality on the draftsman's art. Some interesting things could happen in this area. Suppose there was an agreement not to compete and through disability the employee could not compete. Or suppose that the business itself was discontinued but funds were set aside for the continued payment to the employee. These questions are presented but not answered.

An example of an unfunded arrangement that seems to have the approval of most practitioners would be a case where a person was to perform services to retirement age 65 with the employer to make payments over a period of years with a provision for forfeiture if the employee competes or if he does not render advisory services when called upon. There are, of course, many variations on this theme but in all cases the conditions imposed must be real and the reality of an employment contract that provides for advisory services produces problems after retirement.

By furnishing advisory services the former employee receives income of a nature that could remove him entirely from the scope of retirement benefits under the so called social security program. This condition would probably not obtain if the condition was only negative, as in the case of an agreement not to compete. Therefore, the needs of the agreement will dictate the probable results and if the need for advisory services will be extensive it will be necessary to provide income to make up the amount that will be lost or perhaps the agreement could be drawn to provide separate payment for advisory services.

It has perhaps occurred to you that you might make an unfunded deferred compensation contract, then request a ruling from the Internal Revenue Service as to the tax consequences to the employee. The Service will not issue an adverse ruling but will decline to rule, leaving this matter to be settled in the audit of the tax returns of the employee. Needless to say, that will not provide any comfort to he employee. The Service will issue rulings as to the deductibility by the employer of deferred compensation payments.

In 1948 the House put an amendment in the 1948 Revenue Revision Bill that stated in effect that income under employee retirement benefit contracts was includable in the employee's gross income when received. This bill was not acted upon by the Senate. In 1954 the House passed a simple amendment that provided "that employees covered by nonqualified plans are to be taxed only on the receipt of benefits." The Senate Finance Committee recommended further study of this entire area and no action was taken. It has been suggested that the Senate did not feel that it was necessary to add any new law to reach the result that the House desired, but I suggest that a little statutory law on this subject might not be wasted.

OTHER COMPENSATION METHODS:

STOCK OPTIONS

Stock options apparently arose during the Coolidge administration and the Treasury very early took the position that all profits from these transactions were to be considered as ordinary income.

Somewhere in the past, after the passage of the capital gains provisions, some tax attorney must have presented the argument, with tongue in cheek, that the profit made by his client on exercise of a stock option was not intended but was only incidental to the desire of the corporation to give the client a "proprietary" interest in the business and that "compensation" had not even been considered. I make this statement because the decided cases on the subject held that if the desire to interest executive talent in becoming closely associated with a corporation (by the offer of stock at bargain prices so that the executive would work hard for his own and corporate success) the arrangement was for the purpose of giving him a "proprietary" interest that produced capital gain treatment. However, if there was an intention to "compensate" the executive for working hard for his own and the corporate success this produced ordinary income.

This theory of "proprietary-compensatory" differences in tax treatment was upheld for years, particularly in the Third Circuit where there was an unbroken line of decided cases. As you have no doubt observed, there is quite a distinction between these two types of stock options—distinction but no difference.

Perhaps it was this state of affairs that caused Dean Erwin Griswold to say "I do not see how it is possible to give a stock option to an executive which is not available to anyone else, without it being compensation" (See Statement by Dean Griswold reprinted in Surrey and Warren, Federal Income Taxation, 2d ed, 1953).

The Treasury had always taken a dim view of this situation and first made progress in Smith v Commissioner, 324 U.S. 177 (1945). The Supreme Court held for the first time that an option was compensatory, despite the absence of a spread between option price and market. In this case the taxpayer testified, however, that the option was intended as compensation for services rendered and the Supreme Court concluded that the compensation intended was that which was derived from the exercise of the option. On this point the Court said, by way of dictum,

> "In certain aspects an option may be spoken of as "property" in the hands of the option holder . . . . when the option price is less than market price of the property for the purchase of which the option is given, it may have present value and may be found to be itself compensation for services rendered." (324 U.S. 177, at 182)

After this case, the Commissioner promptly amended his regulations by reverting to the pre 1939 rule, eliminating the question of

intention to compensate except in the case of a gift. The courts did not follow the regulations and the "proprietary-compensatory" test remained the judicial basis for decision.

Out of the resulting confusion came Section 130A of the Internal Revenue Code of 1939, which was enacted into law by Section 220 of the Revenue Act of 1950. Thus was the restricted stock option born. The current definition of restricted stock options is found at Section 421 (d) (1) of the Code and it provides for a statutory creature that is decidedly technical and involved.

A non restricted stock option would be any option that did not meet the requirements for a restricted option under Section 421 and is taxable under Section 61 of the Code.

Meanwhile, differences of opinion were occurring between the Commissioner and taxpayers and one of the more interesting cases was Stone Estate, 210 F (2d) 33, 3rd Cir. 1954. The thought that an option could involve compensation taxable at the time of the grant was advanced with success. Stone was president of Follansbee Steel Corporation and in 1947 purchased from the comporation 100 fully transferable warrants at $10 per warrant. Each warrant entitled Stone to purchase 100 shares of stock at $21.00 per share when the then market was $19.75. In his income tax return Stone reported the value he placed on the warrants of $6,000.00 (less their cost of $1,000) as compensation, with the corporation claiming a deduction of like amount. In 1948 Stone sold 89 of the warrants for some $82,000 and reported the increment as capital gain. The Third Circuit upheld Stone's position apparently on the dictum enunciated by the Supreme Court in the Smith case, as an excerpt from page 182 was quoted and the Court pointed out that indeed this was such a case as the Supreme Court carefully distinguished.

A similar case that proves that all that really glitters is gold was McNamara, 210 F (2d) 505, 7th Circuit (1954), reversing 19 TC 1001. In 1945 McNamara was hired by National Tea Company and as part of his employment contract was given the option to purchase 12,500 shares of National at a price of $16.00, or about 3 points below market. In his 1945 tax return taxpayer reported $16,375.00 as the value of the options issued in that year. The corporation claimed a deduction in the same amount. In 1946 and '47 petitioner exercised the option when the stock was selling at $28.00 per share. The result of this arrangement was that McNamara received stock worth in excess of $355,000 for a cash outlay of $200,000, producing a net gain of $155,000 for a tax on $16,375. The 7th Circuit stated that here the factual situation was different from Smith but stated that "the evidence established a factual situation such as the hypothetical one described in Commissioner v Smith."

Needless to say the Commissioner had been busy also and in 1956 the Supreme Court laid at rest the "compensatory-proprietary" dicho-

tomy in LoBue, 351 U.S. 243 (1956). This decision ruled out any further contention that some nonrestricted options do not give rise to taxable compensation on the theory that they are proprietary options.

Since LoBue some practitioners, far more learned than I, have taken the position that to attempt a non statutory option will require more than mere bravery and that there is the possibility of tax at ordinary rates at the time the option is granted and at its exercise, provided the option is below market in both cases. At the risk of placing myself in the category of those possessing bravery, or lacking in some of the fundamentals that find expression in acts requiring more than bravery, I cannot follow this line of thought because while LoBue settled some things it didn't settle the questions as to the time that taxable compensaion arises under certain nonrestricted options nor the amount of such compensation. The court stated:

> "It is of course possible for the recipient of a stock option to realize an immediate taxable gain. See Commissioner v Smith 324 U.S. 177, 181-182. The option might have a readily ascertainable market value and the recipient might be free to sell his option."

Thus we see the dicta of Smith and LoBue support the results obtained in Stone and McNamara. It would be well, however, to keep in mind the observation of the late Mr. Justice Roberts that Supreme Court decisions were getting "into the same class as a restricted railroad ticket, good for this day and train only."

In 1956 the Treasury proposed regulations Section 1.421-6 covering nonrestricted stock options and prescribing the rules that would be applied to try to settle some of the unanswered questions provided in LoBue. These proposed regulations were in conflict with Stone and McNamara as to time and manner of taxing freely transferable options. The final regulations were adopted September 24, 1959, and while I am not one to pretend complete understanding of the esoteric pronouncements of the Treasury, it seems that these regulations provide for taxation on the spread below market as ordinary income when the shares are purchased, but the provision is made for postponing tax on shares acquired under a restrictive option that has a "significant" effect on their value. The Lehman Case, 17 TC 652 (1951) (acq.) is not followed however as these shares achieve a taxable status at the termination of the restriction. The unofficial position of the Treasury seems to be that if the Stone and McNamara rule were to prevail for freely transferable options, the nonrestricted option would receive more favorable treatment than that provided for restricted options. Therefore, the regulations were drawn to construe the general provisions governing realization of income in a manner consistent with Section 421.

At the last meeting of Sperry-Rand stockholders, some stockholders inquired as to why the president, Vickers, needed a stock option as an incentive to stay with the company when he already owns $3 million

dollars work of stock. Vickers delivered an emotional rebuttal, and General MacArthur got into the act by saying that stock options are an inevitable product of the income tax, itself, "a bastard offspring of the father of Communism. I fancy Karl Marx rejoices in his grave."

The General was a little in error in attributing the income tax to Karl Marx because I read the other day that the Service honored the man who conceived the idea of the income tax, Joseph Jackson Lewis, by hanging his picture. There was some suggestion that it would be more fitting to hang Lewis, until it was discovered that he suggested the tax to Abraham Lincoln as a means of financing the War Between the States.

SHADOW STOCK PLAN

The use of stock options requires a capital investment in the corporation but shadow stock plans are so constructed that they give selected employees substantially all the economic benefits of stock ownership with no risk of loss because there is no capital investment.

The Consolidation Coal Company Plan is typical of this type and incidentally was the first plan to be challenged by a stockholder.

In brief the Consolidation plan provided for what is called the "Management Unit Plan" whereby units related to a share of stock were set up for certain employees. The employee would in effect own so many units which would be credited to his account and on which he would receive a dividend on a unit equivalent to a share of stock. At the time of retirement the employee was also to be credited for the difference in market value of each unit or shadow share and the value at the time of allocation and these funds were to be paid out over a ten year period after retirement.

For some reason this plan was never submitted to the stockholders for their approval and a Mr. Berkwitz brought suit in the District Court of the Northern District of Ohio in 1950, which case was decided in 1958, Berkwitz v Humphrey et al., 163 F. Supp 78 (ND Ohio, 1958).

The Court rejected most of the contentions of Berkwitz but found itself in agreement with the plaintiff, who took the position that stock market appreciation bore no reasonable relation to the value of services rendered. The Court stated that it must be conceded that the market value of the stock of a corporation is an unreliable index of the value of services rendered by its key employees. Further the Court objected to the fact that there was no limitation on the amount that an employee might receive.

The Court mentioned the plan of the H. J. Heinz Company, but this plan was based on the increase in book value as contrasted to the market value clause in Consolidation. The Court did not seem to find the book value plan objectionable and perhaps here is where a small or

closely held corporation might find the basic thought for working out a satisfactory arrangement that would compensate an executive for the improvement made in the value of the corporation during his service. However, with the many factors that could adversely effect book value, accelerated depreciation for instance, it would be necessary to have a very careful definition of what was to be encompassed in this computation. Before you worry with the definition of book value, it would be necessary to have unanimous stockholder approval of the plan.

The shadow stock plan places quite a burden on the corporation in that the amount of deferred compensation cannot be calculated. The corporation incurs a liability of indeterminate amount payable at an indefinite time.

DIVIDEND UNIT PLAN

A variation of shadow stock or management unit is the "Dividend Unit." This plan is in use by the duPont Company. This is known as Bonus Plan C which does not provide for direct bonus payment of stock, but instead provides for the award of so called dividend units, which may or may not be accompanied by stock options.

A dividend unit is the right to receive for a specified period, case payments equivalent in amount to the dividends, other than stock dividends, paid on one share of duPont common stock. If an employee retired at 65 this plan would pay him until his 85th birthday or his death, whichever occurs later. These payments by duPont are of course not dividends but would be a payment in the nature of compensation.

It is thought that there will be no current income tax to the employee because there is no amount set apart that could be drawn upon.

If a stock option is granted in connection with an award of dividend units, the option price will not be less than the average of the high and low prices of the stock on the New York Exchange on the date the option is granted.

The Bethlehem Steel Corporation set up a dividend unit plan as incentive compensation for executives to replace a plan that provided incentive payments of $4,938,226 out of a total of cash payments of $6,058,226 including salaries to top executives. This plan was to have gone into effect as of July 1, 1959 to replace the prior plan that was originated in 1936. The company indicated that tax savings features for executives were prime factors in the new plan, since in the opinion of company counsel, the "dividend units" would not constitute taxable income to the executives, and payments on the dividend units would be taxable income only when they were actually received.

Seven minority stockholders brought an action in Delaware Chancery Court in September 1957, charging that the executives were overpaid. In September 1959, an article in the Wall Street Journal indicated

that this suit had been settled and that the plan would start January 1, 1960. The newly revised incentive compensation plan generally involves these features: Incentive compensation plus salary increases in a single year would not exceed 4% of total cash dividends on Bethlehem common stock, or a reduction from the maximum of 4½% provided in the older plan.

There is one thread woven through all nonqualified plans, that being the narrow line that must be followed to prevent immediate taxation to the employee. However, immediate taxation is not as bad as the results that are obtained if you find the annuitant taxed on the entire value of his contract at the date of retirement. Therefore, care must be ever exercised to see that there is no constructive receipt or the conferring of an economic benefit that is capable of evaluation for tax purposes. There seems to be one further observation that would be in order and this is with regard to the interest being shown by minority stockholders in plans for executive compensation that have any connection with the stock of the corporation.

If you have wondered about the title of this paper, I would explain it by saying that there are a lot of facts on which nonqualified plans rest . . . but the Commissioner would like very much to treat these facts as pure fiction.

IMPORTANT DIFFERENCES IN ALABAMA AND FEDERAL TAXATION OF INCOME

By Harry H. Hayden
Commissioner of Revenue
Alabama State Department of Revenue
Montgomery, Alabama

I have been asked in my speech today to make a comparison between the Alabama Income Tax Law and the Federal Income Tax Law. There are approximately thirty places in the Alabama law which differ from the Federal law. These are set out in the Income Tax Regulations published by the State of Alabama, and with very few exceptions are still the differences. One of the differences mentioned in those regulations is the difference in return date, which of course has been corrected sometime back. Another of the differences shown in the regulations which has been corrected since that publication is the statement that the Alabama law contains no provision for percentage depletion. This was brought more nearly in line with the Federal by the Legislature in 1953, and I will discuss that in more detail in a few minutes.

In most discussions of this subject we find people prone to take the attitude that because the State law varies from the Federal the State law must be wrong. My purpose today is to point up the inaccuracy of this assumption and also to point up some of the difficulties we would run into if we tried to bring these laws into focus. In the first place, the Alabama law is basically the Federal law as it was at the time the Alabama law was passed in 1933. In the last twenty-six years the Federal law has progressed from a rather simple statute to a very complicated statute, the complications for the most part having arisen in order to plug loopholes created by taxpayers' efforts to avoid the payment of tax by departing from the basic intent of the law. The Alabama legislature has not seen fit to attempt to keep pace with this tug of war beween he taxpayer and the tax statute. Yet if you will examine the situation you will find that the State has collected taxes incident to almost every gain which are now collected through the administration of the more complex Federal statute by the Federal government.

To illustrate the problem of attempting to keep pace, I would like

to discuss one of the first differences mentioned in the regulations, that of there being no carry-back or carry-over under the State law. If Alabama had tried to keep pace with the Federal government in this matter, we would have had to change our law in 1939, 1942, 1950, and 1954. Some of these were legislative years and some were not. Let me give you a short run-down on how Congress has dealt with this problem.

For the first five years of our present Federal income tax law, each year was a true independent taxable period and a large loss in one year could not be used to minimize gains in other years. In the Revenue Act of 1918, in order to facilitate "transition from war condition to peace condition," Congress provided for a redetermination of a taxpayer's tax in 1917, if he had a net loss in 1918, and if his net loss, more than balanced off his 1917 gain,he could then redetermine his 1919 tax by applying the balance of his 1919 loss against his 1919 gain. This temporary provision became a permanent provision under the Rev. Act of 1921, with the change that it should apply to the succeeding year of the net loss and if not entirely used up, then to the year after that. In 1932, the deduction was limited to a one year carry over and if not completely absorbed, it was lost. In 1933 the deduction was repealed entirely; not to be reenacted; until 1939. In the Revenue Act of 1939, the provision was for a carry over of two years. And the meaning of the terme was codified as being, "the excess of deductions over gross income." This treatment lasted until 1942, when Congress, again changed the deduction by providing for a carry back two years before there could be a carry over to two succeeding years. In 1950, the provision was changed to one back and five over. The present deduction, is for two years back and five years over. This history has been given, in order to show the instability of the net operating loss deduction from a statutory viewpoint.

Aside from the legislative problem illustrated by the carry-over and carry-back problem, we must remember that our laws differ in a number of basic incidences. For instance, people who do not stop to think quite often ask why the State does not grant special treatment on capital gains. The answer to this is very obvious. The reason for the special treatment under the Federal tax law is because of the graduated scale and the fact that if the entire gain, having as its source economic increase in value, is enjoyed by the taxpayer over a period of years but is taxable in only one year, he will pay a much larger Federal tax than if he had paid a tax on the actual years of his gain. As an example, under our Federal law, assume a man with taxable income of $10,000.00 per year each year, purchased property five years ago, which increased in value $1,000.00 per year for the five years. If the $1,000.00 had been added to his taxable income each year his tax would have been increased $380.00 each year or $1,900.00 for the five years. If he had to pay ordinary tax on this in the year of sale his tax on the $5,000.00—gain

would be 38% on the first $2,000.00, 43% on the next $2,000.00 and 47% on the last $1,000.00 or a total of $2,090.00. Under the capital gain tax system in effect it would be 38% on $2,000.00 and 43% on $500.00 or $975.00. This is supposing the simplest situation under § 1 of the Int. Rev. Code of 1954. On the other hand, when this same man filed his State income tax return he would pay no more because of the gain having been realized in the fifth year—because our graduation stops at 5%.

Another difference in treatment is the interest on governmental obligations. Under the theory that "the power to tax is the power to destroy," surely the taxing of interest by the Federal government on State bonds should be forbidden and surely the State's right to tax Federal bonds should be forbidden. However, it is equally true that this theory does not prohibit one State from taxing interest received by its citizens on the bonds of another State. The very nature of our division of governmental rights and powers between the Federal government and the State government supports a difference in treatment of these items.

Another difference which is obvious, when you stop to think about it, is the variance between the State's and the Federal Government's treatment of corporations. Remember that no matter what State a corporation is incorporated in, it is a citizen of the United States. It is certainly logical that Alabama might desire to treat its corporate children differently from the corporate children of other States, while the "Great White Father" must treat the corporate children of each State the same under the equal protection clause of the Federal Constitution.

An example of this is the fact that in Alabama we have never taxed the dividends of Alabama corporations, the theory being that the gain had been taxed already under the corporate income tax. The taxation of dividends under the Federal tax has always been a choice subject for debate, and in 1954 Congress recognized this double taxation to a limited extent when they created the "dividend credit" in § 34 and the "limited exemption" in § 116 of the Int. Rev. Code of 1954.

Another example in connection with corporations is that Alabama does not tax liquidating dividends of domestic corporations (and neither does the Federal government). However, our exemption is limited to the extent that the distribution was out of a gain upon which a tax had been paid by the corporation. The Federal law does not follow the State in this matter and the result is a very tedious and complicated problem of adjusting the basis of property so as to levy a tax on this gain at a later date. I suggest that we, in Alabama, are handling this matter in a simpler manner and of actually less trouble to the taxpayer. Alabama does, of course, tax a liquidating dividend of a foreign corporation in its entirety, there having been no tax on this gain from

the corporation. For purposes of income tax you must remember that Alabama treats a foreign corporation with 50% of its income in Alabama as a domestic corporation. I would like at this point to repeat, because some taxpayers have questioned the legality of our treatment, we do, in Alabama, tax a domestic corporation's liquidating dividend to the extent that it is paid out of gain which has not been taxed. This eliminates the necessity of adjusting the basis of the corporation's property and carries out the basic theory that all gains "from whatever source" must be taxed at least one time. We recently had a case on this point come before the Hearing Board of the Department of Revenue.

I am going to take the rest of the time allotted me here today to discuss a problem which I believe is a very fascinating problem. Some of you know that I have published a book, entitled "Fundamentals of Federal Taxation," in which I approached the entire subject of income tax from the viewpoint, first, that there must be a gain; second, that the taxability or non-taxability of the gain will depend upon the source of the gain; third, that the tax will fall upon the taxpayer controlling the gain; and, fourth, that the characteristic of the taxpayer will control the rate of the tax. In following out this basic thesis I have treated deductions by classifying them as constitutional deductions or deductions as a matter of legislative grace. A constitutional deduction would be one which the taxpayer would have as a matter of right, because it is necessary in order to measure the amount of his true gain. This is labeled "constitutional" because under the Constitution, Congress was granted the right to tax gain, but not merely receipts. On the other hand, Congress could, if it wished, grant a taxpayer a deduction as a matter of legislative grace. An example of this kind would be a deduction allowed to a certain group of taxpayers in order to encourage certain activities. When I was doing my research for this book I was faced with the propostion of whether the depreciation and depletion deductions should fall into the first class or the second. As to depreciation, it seems obvious that this is a constitutional deduction, the gain here having as its source a capital item. If we do not allow a deduction for the detriment suffered by the taxpayer through exhaustion by wear and tear of this capital item, we actually would be measuring our tax by applying our percentage to an amount greater than his actual gain. As to depletion, there has been considerable propaganda to the effect that the depletion deduction was first created to encourage exploration of our natural resources. In order to decide whether or not this was true I spent considerable time digging into the Congressional Records and the Committee Reports. What I discovered was quite astonishing.

Depreciation: The State Income Tax Law provides for a reasonable allowance for the exhaustion, wear and tear of property from which

any income is derived (§ 385[1]). We have no statutory provision in the State law for the declining balance method, or the sum of the years-digits method. As a matter of fact, we find no specific mention of the "straight line method." The controlling words in the statute are "a reasonable allowance." The question then becomes whether or not the Federal Congress was acting as reasonable men when they codified these methods. We are at the present time considering this question and may come up with a regulation on this point in the near future.

Depletion: The State law provides for a reasonable allowance for depletion, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Department of Revenue. The State law provides for cost depletion. It then provides, as an alternative, discovery depletion in the case of oil and gas wells, and mines. In 1953 the legislature added a second alternative in the case of an oil and gas well. If the owner chooses to do so he may use percentage depletion at 27½% of the gross income up to 50% of the net income from the property. The real difference between the Federal law and the State law is that under the regulation issued by the State a person is limited to his cost when he has chosen percentage depletion.

This last statement may come as a surprise to you gentlemen. If you refer to your statute you will notice that the law is silent on this point. However, immediately after the passage of the percentage depletion in 1953 the Department of Revenue issued an amendment to its existing regulation. The last paragraph of this regulation states:

"To be allowable for income tax purposes, depreciation and depletion must be charged off on the taxpayer's books, . . . After depreciation or depletion to the extent of 100 per cent of the cost or other income tax basis of the depreciable or depletable assets has been allowed, no further deduction will be permitted."

Now, remember that the Code section creating the depletion deduction provides for a reasonable allowance, "such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the department of revenue."

Here we have a difference, if my interpretation is correct, between the Federal and the State laws which is far reaching and fundamental. Let's examine the history and background of the Federal law and see if my interpretation is not in keeping with the original intent of Congress.

Discovery Depletion is not applicable to years covered by the Int. Rev. Code of 1954 and is discussed at this time, in order to explain the existence of Percentage Depletion. In 1918, Congress introduced Discovery Depletion by providing that the allowance for depletion should be based upon the fair market value of the property on the date of discovery, or within thirty days thereafter. Discovery depletion was available, only, if the mines had been discovered by the taxpayer. This spe-

cial treatment for a taxpayer who had discovered a mine, or well, was granted by Congress because "The prospector for mines or oil and gas frequently expends many years and much money in fruitless search." The intent of Congress was to recognize that the past expenses of a prospector were part of the cost of discovered property. Therefore, the taxpayer was allowed to use a greater basis than purchase price, as cost. By 1921, Congress had found that Discovery Depletion was being used to effect or cancel profits derived by the taxpayer from other lines of business; so the deduction was limited to the net income from the property depleted. In 1924, Congress reduced this to 50% of the income from the property. However, it must be borne in mind that the deduction was still to recover "cost" of the property and when that "cost" (represented by discovery value) was recovered, there would be no further depletion deduction.

In preparing the Rev. Act of 1926, the House of Representatives Committee on Ways and Means felt that taxpayers, other than discoverers, were taking advantage of the benefits of Discovery Depletion. This committee recommended an amendment to clarify the meaning of the term, "proven tract" as used in the Discovery Depletion section. Under the law then in force if a taxpayer purchased a "proven tract" and then discovered oil, he was not a discoverer entitled to the benefit of Discovery Depletion. When the House Bill reached the Senate, the Committee on Finance repeated and approved the statement of the House committee and then added, "In the interest of simplicity and certainty in administration your committee recommends that in the case of oil and gas wells the allowance for depletion shall be 25 per cent of the gross income from the property." (Immediately preceding this quotation was a statement that the administration of discovery depletion had been very difficult because of the necessity of arriving at discovery value. Senate Report No. 52, 69th Congress, 1st Session, Jan. 16, 1926. Reproduced in Cum. Bull. 1939-1 pages 332, 345.) It seems, that a Senate Bill was passed using 30 per cent and that as a compromise the "committee of conference" used 27½%. (House Report No. 356, 69th Congress, 1st Session, Feb. 22, 1926. Reproduced Cum. Bull. 1939-1 page 361. At page 362, the committee repeated the recognized difficulties under the existing law, and said that the proposed change was for "simplicity and certainty.") It seems that many members of the House, Senate and conference committees were proceeding under the assumption that they were recommending an amendment to the Discovery Depletion section. (Certainly, if an entirely new concept; doing away with cost depletion in the case of "purchased proven tracts," had been intended, some mention of this drastic change would have been made in the reports.) However, the form in which the act was finally passed, covered "all" oil and gas wells; not merely those discovered. It seems that many members of Congress were unaware that they were

placing the oil and gas taxpayers in a favored position, with a deduction that had no relation to the determination of "gain," which should be the object of all business deductions. (Senator Reed mentioned the new method as an example of the effort to simplify the tax law in order to aid the Int. Rev. Bureau. Senator Reed's statement was in support of a statute of limitation on claims. Cong. Rec. 69th Congress page 3018. Senator Couzens and Senator King had served upon a committee which investigated the Internal Revenue Bureau (Senate Report No. 27 1921). These two senators recognized the implications involved. See Cong. Rec. 67, part 4, pages 3768-3778, 69th Congress, 1st Session.)

What happened was that whoever wrote up the recommendations of the Committee wrote a paragraph covering Discovery Depletion and then instead of continuing this paragraph with the alternative depletion clause ended that paragraph and put the depletion clause in a separate following paragraph with no clause referring back to the Discovery Depletion paragraph.

If the percentage depletion under the Federal law is free of the element of reasonableness, and the element of actual detriment suffered because of an accident, this same accident did not happen in connection with the law of Alabama. When percentage depletion was added to the law of Alabama it was placed in the law along with cost depletion and discovery depletion and is certainly subject to the sound, fundamental limitations of reasonableness and actual detriment.

Remember that the income tax is a tax on "gain" and that the reason for this deduction is to protect the taxpayer who has a gain derived from the sale of a natural asset. Surely the deduction for depletion is justified if gain, and gain only, is to be taxed. Certainly part of the cost of the item sold is a portion of the cost of the natural resource itself. However, it is just as certain and just as clear that once the taxpayer has recovered his full cost he no longer can claim depletion, whether it be cost or percentage. Percentage depletion was not created to encourage exploration of our oil fields, as the oil companies would have you believe. It was the creature of a misplaced decimal point.

The argument I have made here for the State's view as against the Federal view is equally applicable in support of the continued limited field of application of percentage depletion. Under the Federal law it applies to mines, wells, and other natural deposits. The 1953 Legislature limited its use in Alabama to "oil and gas wells." I personally feel that this was justified and was much wiser than a blind following of the "Great White Father."

COMPARISON WITH FEDERAL LAW

Some of the more important differences between the Alabama law and the Federal income tax law are as follows:

(1) The Alabama law provides for no net operating loss deduction, no carry back or carry forward of losses, and provides no limitation on the amount of recognized loss on the sale of property which may be deducted.

(2) The Alabama law makes no provision for special treatment of capital gains and losses.

(3) The Alabama law contains numerous provisions with respect to non-residents and foreign corporations which in all cases are not the same as Federal provisions.

(4) All interest on obligations of the United States is exempt from Alabama income tax. (See Reg. 375.1).

(5) Certain dividends, including all stock dividends are exempt from Alabama income tax. (See Reg. 388.1 and Reg. 403.1). Dissolution dividends are taxable to the extent paid out of corporate gain which has not been the measure of State income tax.

(6)The effective date of the Alabama law was January 1, 1933, and income earned before that date is exempt. The value at this date also becomes the basis for property acquired prior to such date in many cases. (See Reg. 378.1).

(7) There is no provision under the Alabama law for the filing of consolidated returns by corporations . (See Reg. 406.1).

(8) Alabama law on percentage depletion is limited to 100 per cent of basis. (See Reg. 386.1, as amended).

(9) The proration of certain exemptions is required in Alabama where the income reported is not that of a full year . (See Reg. 388.2).

(10) Non-business bad debts are not deductible under Alabama law. (See Reg. 385 (2).1).

(11) Income from annuities, under Alabama law, is not taxed until the cost of the annuity has been recovered tax free. (See Reg. 384.3).

(12) Alimony is neither deductible to the payor nor taxable to the recipient for Alabama income tax purposes . (See Reg. 385.14).

(13 There is no provision in the Alabama law for the use of a Reserve for Bad Debts. (See Reg. 385.7).

(14) Dividends on Saving and Loan Association shares are exempt in Alabama . (See Reg. 384.2).

(15) The Alabama law provides for a special exemption for a "head of a family." (See Reg. 388.3). This provision is similar to, though not identical with the Federal concept of "head of a household," for which a special tax computation is provided by Federal law.

(16) The income from a financial business subject to the Alabama excise tax on financial institutions is exempt from Alabama income tax.

(17) The basis of property received as a gift is its fair market value at the date of the gift for Alabama tax purposes. There are also some minor differences in the rules for determination of basis in the case of property transmitted at death, and no optional valuation date is authorized. (See Reg. 378.2).

(18) There are certain differences in the deductibility of some taxes. (See Reg. 385.6).

(19) There is no provision in the Alabama law for the amortization of a premium on purchased bonds. (See Reg. 385.14).

(20) The limitation on the deduction for contributions is 15% of net income rather than 20% of adjusted gross income as in the case of the Federal income tax. There are also differences in the classes of recipients who are recognized for purposes of the contributions deduction. (See Reg. 385.10). No deduction is allowed for accrued contributions.

(21) The medical expense deduction is for such expenses in excess of 5% of gross income instead of adjusted gross income as in Federal taxation.

(22) The Alabama law contains no provision for non-recognition of gain on the sale of a residence.

(23 The Alabama rules with respect to the reinvestment of the proceeds of involuntary conversion are the same as the Federal rules before the 1951 amendments to the Federal law. (See Reg. 380.8).

(24) The Alabama and Federal meanings of the terms "control" and "reorganization" are somewhat different, as these terms are used in connection with reorganizations with respect to which exchange may be made without recognition of gain or loss . (See Reg. 380.1 and Reg. 380.4).

(25) Differences in the use of the installment method of reporting income are explained in Reg. 411.1.

(26) In Alabama, the statute of limitations for refunds runs from the time of the payment of the tax, not from the due date of the return as for Federal purposes. (See Reg. 410.2). For additional assessments by the Department of Revenue, the statute runs from the time the return was filed. (See Reg. 412.1).

(27) The requirement for filing individual returns is not based on $600 gross income as for Federal purposes, but on $1500 net income. (See Reg. 394.1).

(28) Interest on obligations of any state or political subdivision thereof is subject to Alabama income tax, except that interest on obligations of the State of Alabama and any county, municipality or other political subdivision thereof is exempt. (See Reg. 384.2).

ESTATE ANALYSIS

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It is certainly appropriate that in this institute one of the subjects for consideration should be that of estate planning. There is, in all likelihood, no professional field today that is more interesting to the tax practitioner, not only because it is relatively new, but also because of the tremendous opportunities for one who adequately prepares himself to work in it. These opportunities exist in every section of the country, even including those where estate planning activities have been more vigorous in recent years.

The discussion of the subject in this paper will cover two aspects of the field. First, there will be considered a practical, non-theoretical technique which anyone can use in doing a planning case. The intent here is to get away from all the complex theory which is usually covered in institutes and to show just what one can do when a client is in the office and willing and ready to get down to work on the task. Secondly, and in conjunction with this, there will be mentioned some useful devices and ideas which can be employed in planning, with particular emphasis on when and how they are to be utilized.

Prior to the time that one is ready to start on the actual planning of any case, it is most important to recognize that there are two preliminary steps which are vital. The first of these is that the case must first be analyzed. In other words, before a course of action can be laid out, the planner must know exactly the point from which he is starting. This is done by ascertaining exactly what would happen to the client's property and estate if he were to die without having made any changes whatsoever in his present "plan"—if, indeed, it can be called a plan at all. This, incidentally, usually works out to be one of the most powerful motivators to action that can be imagined, because if the client understands the real consequences of inaction, he will be more anxious to take the necessary steps to change those results.

Now the analysis referred to here entails far more than an insurance programming job, desirable as that may be. Also, it means much more than the drafting of simple, reciprocal wills which, incidentally, can be

the most expensive tax arrangement in many cases. And, finally, it means far more than a mere tax analysis, which, though helpful, may completely miss other (and more important) problems in the picture. Actually, as will be pointed out later, taxes are really only one quarter of the case as a whole. To do a thorough, accurate analysis job, one must have a complete list of all the assets involved, with their present fair market value, and most especially, the manner in which titles to the properties are held—whether in name of husband, or of wife, or joint and survivorship. Then, too, if any business interest is involved, the analyst will need to have available both balance sheets and operating statements covering at least the last five years so that some intelligent estimate can be made of the possible tax valuations of such business interests.

Along with complete asset lists, there must also be a full schedule of all liabilities, plus copies of any present wills, trusts, insurance arrangements, and any business contracts or options. Last, and of just as much importance, is the ascertaining of what the client's personal objectives are: What does he really want to do for his family; how much income will they require; who is to receive the close corporation stock?

With all these facts in hand. the actual procedure of analysis consists of running a hypothetical probate. Assuming that the client was already deceased, what would happen to all these assets. What would the taxes be? How much cash would be required to pay all the liabilities, the taxes and the other cash requirements? Where would the necessary cash come from? After the estate administration is completed, what assets will be left for the family? And what will the family income then be? Time does not permit a further discussion of this procedure—that is a paper of itself—but these are the factors that show up in the analysis.

In any event, when the analysis is done, it will disclose precisely what will happen in this case if no further action is taken. Then, and *before* any planning is attempted at all, the second major step in the technique is to ascertain the problems which the analysis discloses—in what respects does the present plan fail to accomplish the client's objectives. In other words, there is an evident gap between the results of the present plan and that which the client wants to do; the question is what is the nature and extent of that gap?

Now ascertaining these problems will be vastly simplified if it is appreciated that they will always fall in one or more of just four different areas: 1. excessive transfer costs; 2. inadequate liquidity; 3. disposition of assets; and 4. family income. Thus, the analyst should go down the list and inquire whether, in the particular case under study there is any problem disclosed relating to excessive transfer costs, and if so, when and how it arises. He does the same thing with each of the other areas to the end that, when he is through with the list, he will

have a very specific and comprehensive list of the precise difficulties involved in the case. As a result, when the planning procedure is commenced, all of the ideas and suggestions should be related back to the problems and a plan devised that will go as far as possible in solving or alleviating as many of the problems as possible.

The remainder of this paper is going to consider each of the four problem areas and discuss some useful ideas which may be helpful in arriving at solution:

As regards transfer costs, it should be noted first that this category includes only taxes and costs of administration. Secondly, the tax aspect that gives concern is not that the amount is *high,* but that it is *excessive* —in other words, it could be reduced by methods which are still consistent with the client's objectives. Ordinarily, when transfer costs are a problem, attention is given to two possible solutions; the use or non-use of the marital deduction, and secondly, gifts. And when the marital deduction is considered, it is not only important to consider qualifying enough property to get the maximum allowable, but also not to *over-qualify.* For example, if the client has $200,000, all of which he leaves outright to his wife, the tax at his death would be some $4,800, but at his wife's subsequent death, the tax would be somewhere between $32,000 and $37,000, depending upon how long she survives him. By way of contrast, if he left only half of his estate to his wife and thus did not over-qualify, then the taxes between the two estates would be reduced to some $9,600, a saving of over $20,000 in taxes for the children.

A common question in connection with the marital deduction is the use of common disaster clauses. Alabama has adopted the Uniform Simultaneous Death Act which provides that when two persons die under circumstances such that the actual order of death is not known, then the estate of each is to pass as though he had survived. But this is subject to the important qualification that this presumption can be eliminated or reversed by the will (or the insurance policy). Now the question of whether to let the statute apply or deliberately to reverse it depnds upon the facts of each particular case. If, for instance, the husband has $200,000 assets all in his name, if he leaves this all to his wife, otherwise to his children, and if the will is silent about common disaster; then, in the event of such a common disaster, the wife will be presumed to have predeceased him, with the result that there will be no marital deduction for his estate and the tax will be $32,000. What this client might better do would be to leave half his estate to his wife (outright or in a marital deduction trust) and provide that as to such gift she is to be presumed to survive him. Then, if there is a common disaster, the tax in his estate will be $4,800, with another $4,800 in the wife's estate and a substantial tax reduction will be achieved.

Suppose, however, ownership of the $200,000 is equally divided be-

tween the husband and wife. Under these circumstances, if the wills are the ones silent as to common disaster, both the estates of husband and wife will go directly to the children, and the total taxes will be $9,600. But if, under these circumstances, he were to give the wife one-half and invoke a presumption of the wife's survival (which worked out well in the previous illustration), then the total taxes between the two estates will be increased to almost $18,000. So it is evident that what one should do on the subject of common disaster depends upon the facts of each case—all of which would, of course, be clear from the analysis.

Another interesting but not too commonly known aspect of the marital deduction is that there are *two* types of qualifying trust which can be used. The first is the well-known power of appointment type under which the wife must be given all the income from the trust for life and the right to designate the takers of the corpus at her death, including the power to appoint to her estate. The trouble which may arise here is that if the corpus of such a trust consists of an interest in a closely held corporation which has paid little or no dividends in the past, such assets may be disqualified for the deduction. (See Regulations Sec. 20.2056 (b)-5 (f) (1). If such an unproductive asset is to be put into a trust which is to be qualified, it will be safer to use the second or so-called "Estate" type of trust. The only requirement of such a trust is that at the wife's death the remaining corpus is to be delivered to her estate. Income may even be accumulated during her lifetime (subject, of course, to the limitations of Alabama law).

Passing now from the marital deduction as a means of reducing transfer costs, there is next the possibility of gifts. Here one is confronted with the questions of (a) what to give, (b) to whom to give it, and (c) how to make the gift. To begin with, if cash, listed stocks, or other liquid assets are to be transferred, one must watch out for the effect of the gift program on the liquidity of the estate. In other words, a program that may work out well in reducing the taxes, may, at the same time, create or aggravate a liquidity problem. On the other hand, gifts of close corporation stock present two other varieties of trouble; one must watch the effect of such gift of stock on voting control of the company; and one must beware of the effect of such gifts on future stock redemptions under the provisions of Sections 302, 303, and 318 of the present Internal Revenue Code. Mr. Casey has discussed this subject matter heretofore, and all that needs to be done here is to point out how this enters into estate planning.

In approaching the idea of gifts, one very often finds that the proposed donees are minors and the decision to be made is that of *how* the gift shall be made—that is, outright or in trust or by use of the new Custodian statutes. Ordinarily, the outright gift is not practical because of the inability of the minor to manage the property after the gift is

made. Thus, in order to get necessary management some other idea is sought. Now both the custodian procedure and the trust for minors under I.R.C. Sec. 2503 (c) have been quite popular, but both of them entail one practical difficulty entirely apart from some tax drawbacks. What is referred to here is the requirement that the minor donee *must* actually get the property at age 21. A great many people feel that the turning over to a young person at age 21 of any substantial amount of property is very likely to spoil the child. What most practitioners overlook is that the only tax difference between one of these "distribute-at-21" trusts and a trust in which distribution is not made until some later age (with accumulation of income in the meantime) is the latter will not be entitled to the *annual exclusion* on the gift tax. However, if the actual amount of gift tax involved in the exclusion is calculated, it will very often be found to be so small that there is no point in taking the risk of unhappy results of a distribution at age 21.

One other aspect of gifts and tax reduction might be mentioned here. This relates to cases where a charity is to be the beneficiary of a trust but only after the termination of an intervening life estate. If the life beneficiary is to receive income only, no problems arise and the charitable deduction will be the value of the remainder. Problems arise, however, where the life tenant may be entitled not only to income but also amounts of the principal. If the corpus may be invaded for the beneficiary's "happiness," "welfare," "comfort" or other broad and ill-defined purpose, then the charitable deduction may be lost completely because of the impossibility of calculating the value of the remainder. If, therefore, the charitable deduction is important as a tax-reduction factor, the invasion of the corpus of the trust should be limited to the usual, ascertainable and well-defined standards such as "care, support and maintenance."

Turning now from the discussion of the first problem area, that of reducing excessive transfer costs, the second area to be considered is that of inadequate liquidity. In more than half the cases encountered, it will be found that even after transfer costs are reduced to the barest minimum consistent with the client's objectives, there still are not sufficient cash and liquid assets to cover the cash requirements, including not only taxes but also all other liabilities which the estate will have to pay. When this situation occurs, there are two useful ideas which should be considered.

The first of these is the insurance trust. In lieu of having the life insurance paid to the widow directly (whether in lump sum or under the options), consider setting up a life insurance trust in which the trustee is beneficiary of part or all the insurance. The trustee may be authorized then to advance cash to the executor or to buy assets from the estate. Ordinarily, the life insurance trust in these cases will be the major dispositive document and will include the marital and non-

marital trust, and the will of the client may simply "pour" the residiary probate estate over into the trust at the termination of administration. The result of this procedure of using life insurance to buy assets will thus be to get liquidity into the hands of the executor and the probate assets will wind up in the trust where they would be going ultimately in any event.

A second method of providing liquidity (in cases where close corporation stock is involved) is that of utilizing the stock remeption provisions of I.R.C. Sec. 303. That section provides that when the close corporation stock constitutes 35% of the gross estate or 50% of the taxable estate, the executor may turn in to the company sufficient stock to pay the taxes, the costs of administration and the funeral bill without having any part of such redemption treated as a taxable dividend. Since the stock will have a new cost basis in the estate, there will be no capital gains tax on this redemption, so that the result will be a withdrawal of funds from the surplus of the corporation without any income tax at all. In planning for such a redemption, however, one must be careful lest the family lose control of the corporation in the process. If it seems that such might happen, one possible solution is to recapitalize the company with both voting and non-voting stock; then, if the redemption is limited to the non-voting stock, the family voting control will not be impaired.

Furthermore, if such a stock redemption plan is to be used, care must be taken with regard to any future gifts of stocks to members of the family, since such gifts may bring the value of stock in the estate down below the 35% or 50% requirements mentioned above. Incidentally, it might be mentioned here that the family attribution rules set forth in I.R.C. Sec. 318 do not apply to Sec. 303 redemptions, so that all one has to be concerned about in these redemptions is the percantage of stock in the estate.

The third problem area to which attention will now be given is that which has been designated "Disposition of Assets." This relates to the matter of *which* beneficiaries will receive *what* assets and in what *manner*. Are the right people getting the right items? And, if any of these people are, for any reason, incapable of managing the property adequately, is such management being provided? The subject of management immediately suggests the idea of the trust device which is, without any doubt, the most useful single technique in the entire estate planning field. It not only achieves management of property in a way that cannot be approached by any other method, but it also can achieve tax savings in the process. For example, in the $200,000 estate illustration which has been given above, the husband (owning the estate) can give one-half of this property directly to his wife and the other half to the children and get maximum tax savings in both his estate and that of his wife. However, in an estate of this size, particu-

larly if the wife is young, he will ordinarily prefer to leave the non-marital half in such manner that his wife may have the use and benefit of it as long as she lives but without having it taxed in her estate. The method by which this is accomplished is to give her the income plus such amounts of the principal as, in the discretion of the trustee, are needed to provide for her. In this fashion, she may have the benefits of the entire estate, but only the marital half will be taxed in her estate at her later death.

Another excellent tax saving device which is available through the use of the trust is the non-general power of appointment. The beneficiary may be given the right to designate the ultimate takers of the property, but if he is prohibited from appointing to himself, his creditors, his estate and the creditors of his estate, the property subject to the power will not be includable in his taxable estate. This, obviously, allows a considerable degree of flexibility because it permits the beneficiary, in essence, to change the estate plan at a later date in order to meet changed circumstances which the estate owner himself could not have envisioned.

Mention should be made again at this point of the possible use of the life insurance trust. If this is adopted as the major conveying vehicle, then one can get the most inclusive plan because such a trust can hold and dispose of not only the probate assets but all the life insurance as well—and it is important to observe that life insurance is increasingly becoming a major asset in estates.

A major concern in working out the disposition of assets relates to the close corporation stock. First of all, it should be pointed out that the decision as to whether this stock should be retained in the estate or sold *depends* upon a number of factors, chief of which is that of whether the family will be in control or in a minority position. If control is assured, *and* if there is adequate successor management, *and* if there are adequate non-corporate assets in the picture to take care of the family in all events, then a decision to retain may be wise. However, if any of these factors is absent, a lot of thought ought to be given to the question of whether, in the long run, the family might be much better off to have the stock sold and switch this substantial asset into something more liquid and with better income potential. Next, if, for current income tax reasons, this corporation has elected to be a partnership (under the so-called Subchapter S), the planner should keep in mind that a trustee may NOT be a stockholder in such a corpooration. Thus when the estate owner is gone, the stock will either have to be sold or the partnership election will have to be terminated. In any event, this is one of the factors that will have to be considered in working out an integrated estate plan.

In a great many estates involving close corporation stock it is found that the client's objectives call for one person (the son) to have com-

plete voting control of the stock, but with the income from that stock going to others (the wife or daughters). There are two ways in which this can be accomplished. The first is by way of recapitalization with common and preferred stock—the common then being given to the son and the non-voting preferred going to the wife and/or daughters. The second method entails leaving all the stock in trust but with the son being given proxies by the trustee to vote the stock.

One further observation about close corporation stock and the estate plan: all present buy-sell contracts involving sales back to the corporation should be very carefully reviewed, especially those that were entered into prior to 1954. There are multitudes of such contracts now in force which were perfectly proper at the time they were executed but which could cause disastrous tax results if completed today —all because of the provisions of Sections 302 and 318 of the Internal Revenue Code. Mr. Casey's paper covered this in detail, so it is mentioned here only to indicate that the subject will naturally come up for review in the estate planning work.

The fourth and final estate problem area is that of Family Income or Security. Sometimes the analysis will show that the income available to the wife and the children will be inadequate in all events. Where this is the case there seem to be only two solutions: either dispose of the unproductive assets (sell out the close corporation stock which is not paying dividends) and reinvest in something which will pay income; or, add new assets into the estate to increase the income. There is only one way, however, in which this latter can be accomplished immediately, and that is through the purchase of more life insurance on the client—whether owned by himself, his wife, his children or, perhaps, a qualified pension or profit-sharing trust.

Occasionally, however, the estate picture will be such that the income, instead of being insufficient, will be more than adequate. In the typical case, the income is usually to go entirely to the wife; but if this income will be more than she will need, there is no point in paying it all to her with the resulting income tax loss. So, in lieu of that, consider providing in the non-marital trust, that the trustee shall distribute the income among a *class,* consisting of the wife, the children, possibly grandchildren, and perhaps even parents of the client and his wife. In making these distributions the trustee may take into consideration not only the needs of these people but also their income tax brackets, so that in making distributions certain income tax savings may be achieved.

The third sort of income picture which may be found is one where the income may in some years be more than adequate and in other years may be very low or altogether non-existent. This may happen where a large part of the principal is in close corporation stock which, in good times may earn and pay large amounts but, in slack

times, may lose money and declare no dividends. In cases of this sort, perhaps an accumulation trust may be advisable so that in the fat years income can be held to be paid out in the lean years. Of course, in setting up such a deal in Alabama one must be careful of the 10 year accumulation limitation, but it would seem that even within those limitations a helpful program can be worked out.

Finally, as part of the income or security picture, one should not overlook provisions for education and emergencies. However, if the trust is used, this is a simple matter of authorizing the trustee to pay out not only income but principal as well to provide for all educational expenses for all the children, but also to meet any medical or other emergencies which may arise.

In conclusion, while it is hoped that some of the planning ideas here suggested may prove to be of help, even more important is the method of procedure. The entire estate planning operation will go much better and result in far better jobs if it be done in the three distinct steps mentioned: (1) Do a thorough, meticulous job of analysis; (2) Enumerate or list the problems which the analysis disclose, and get the agreement of the client and all those who are involved in helping with the planning job on what these problems are and their relative importance; and then, and then only, (3) do the planning.

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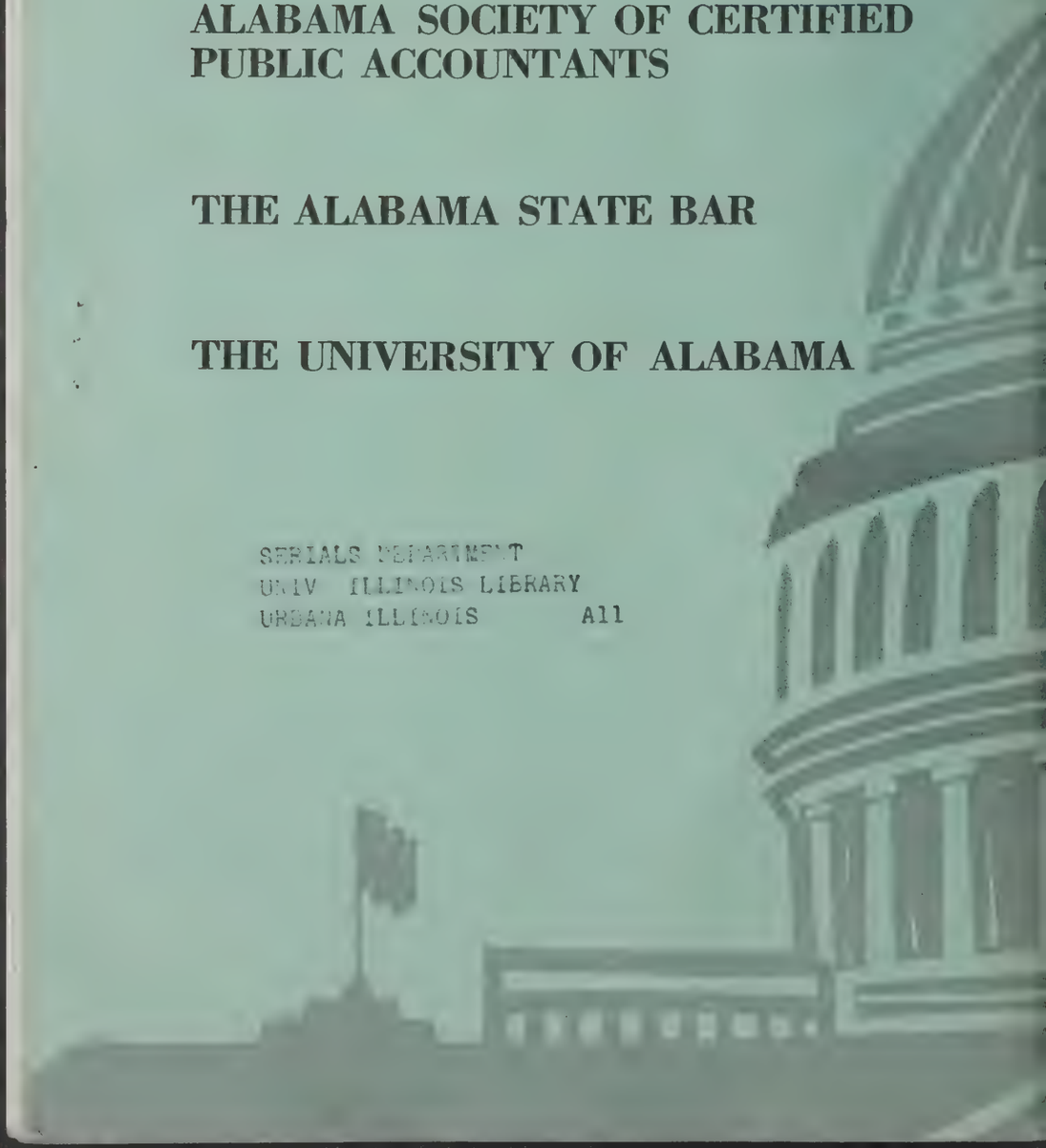


UNIVERSITY OF ALABAMA
EXTENSION NEWS BULLETIN
"The University Campus Covers the State"
June, 1960 UNIVERSITY, ALABAMA Vol. 17, No. 12

Variety, Service Are Key Words In University's Center Programs

BIRMINGHAM CENTER TAKES TO ETV . . . The sales and merchandising experts shown above were participants in a series of 11 programs offered by the Birmingham Center over the Alabama ETV Network on problems in small businesses. From left to right they are: Maurice Ausley, Birmingham insurance man and teacher of salesmanship at the Center; Frank Sego, Birmingham, advertising executive; and Richard Evans, moderator of the series.

Rendering themselves even more valuable to the communities which they serve, the six University of Alabama Centers annually offer a variety of courses designed to enrich, inspire and inform along with classes that are purely academic.

Reception has been enthusiastic in all six Center locales, with enrollment often overflowing the anticipated mark.

Mobile Director Named

Fred P. Whiddon will become director of the University's resident center in Mobile effective June 1, according to an announcement made jointly by UA President Frank A. Rose and Extension Division Dean John R. Morton.

Whiddon this month completes work at Emory for the Ph.D. degree in history and philosophy. He is a graduate of Birmingham-Southern and a native of Houston County.

Dr. Jack Jessee, who has served as acting director of the Center this past year, will continue as senior faculty member in Mobile.

Whiddon previously taught at Athens College where he was also dean of students and head of the business and industrial phase of the Athens College Development program.

Called by Gadsden Center officials "the most successful of our special programs in the past year," is that group's Current Affairs Forum. Chairman of the Forum was Charles Cantrell, instructor in history.

Taking their cue from the general theme "The World Today and Tomorrow," guest speakers from many fields addressed the 70 persons who were enrolled.

Speakers and their topics included Prof. Kenneth Whiting, Air University, Montgomery, who spoke on recent trends in the Soviet Union; UA history professor Dr. John Ramsey, speaking on critical revolutionary events in Asia; Dr. Robert S. Lancaster, Arts and Sciences Dean at the University of the South, who talked on foreign policy in the nuclear age.

James Couey, vice president and general manager, The Birmingham News, speaking on the newspaper and the economics of the nation; and George C. Bucher, Redstone Arsenal, who lectured on the Soviet challenge in space.

Birmingham Has Wide Range

The Birmingham Center offered a wide range of such courses. Special opportunities are available in engineering education and theater production. Some of these courses were: Art Appreciation, taught by Adele Robinson, enrollment 48; Interior Decoration, Marihelen Copeland, enrollment 135; English for Foreign-Born, John Pool, enrollment 27; English for Business and Professional People, Elizabeth Brock, enrollment 37; Seminar for Actors, Acting Motivation and Acting Technique, Betty Foley, each with an enrollment of 12; Creative Dramatics, Linnie Mae Brobston and Mrs. Foley, enrollment 190; Religious Drama workshop, James Hatcher and Mrs. Foley, enrollment 12; and A Day of Living Theater, Harold Clurman and others, enrollment 100.

In addition, the Birmingham Center is providing a course in Human Relations for Medical Assistants, conducted by Dr. A. Rayburn Jones, with 69 medical assistants registered.

A series of 11 television programs on the problems of small

(Continued on pg. 4, col. 1)

U. OF A. REACHES TO ALL CORNERS OF STATE

The far-reaching fingers of today's University of Alabama spreads to all corners of the state, providing educational advantages for Alabamians not residing on the main campus.

During the last half-century the UA Extension Division has developed these services in many ways. The Capstone's resources can be tapped by mail, through radio and television, in conference and short course activities, and by attending classes and lectures at Centers established in most of the major population concentrations of the State.

As Dr. John R. Morton, Dean of Extension, points out: "These arrangements make it possible for every citizen of Alabama to use the University's educational resources in whatever degree suits his interest and convenience."

Over 10,000 Served

More than 10,000 students are served annually at its centers in Birmingham, Mobile, Dothan, Gadsden, Huntsville and Montgomery. These include businessmen, engineers, lawyers, first- and second-year college students having to work and attend on a part-time basis, and many others interested in enriching their cultural backgrounds.

For similar groups special evening classes also are regularly maintained in Selma and Tuscaloosa, periodically in Decatur, Jasper and Sylacauga, and occasionally at other points around the state.

Instruction at the Centers is supervised by department heads at the Capstone and teachers perform their duties as approved members of departmental faculties of the University.

Correspondence Courses

More than 200 different correspondence courses made college as close as the mailbox last year for over 3,000 students enrolled under this program. Teachers, members of the armed forces, and business employees are the principal groups served.

About 15 percent of those enrolled in correspondence study are students in Alabama high schools, many completing college entrance requirements, others being unusually talented students wishing to enlarge their education before entering college.

In addition to regular courses in which degree credits can be earned by correspondence, guided reading outlines and similar materials are provided for study club groups by the Extension Division.

Between 1,000 and 1,500 Alabama citizens also used the facilities of the UA library by mail last year. Books, magazines, and periodical clippings on particular subjects are available. High schools and little theatre groups are provided reading copies of dramas, and art education materials are made available to the more than 500 women's clubs in the state.

Educational films are available, having a wide range of use from teaching aids in schools to program material for clubs and churches.

Extension Supervision

One of the three Alabama Educational Television production centers is under Extension supervision at the Capstone. University programs include college credit in such subjects as French, accounting, government, and mythology. Many programs are provided to assist Alabama ele-

(Continued on pg. 4, col. 3)

ALABAMIAN TALKS WITH ROYALTY . . . Distinguished educator Dr. James F. Caldwell (left), formerly with the University of Alabama, talks over educational problems in Jordan with that country's ruler, King Hussein. Dr. Caldwell is now assisting in educational development of Jordan.

Former UA Staffer, J. F. Caldwell Now Aiding Jordanian Education

Making a mark as an educational advisor with the U.S. Operations Mission to Jordan is former University of Alabama administrator Dr. James F. Caldwell.

He has worked closely with officials of Jordan in setting up a six-year education plan, and will be involved in a $10 million educational development plan soon to go into effect.

Dr. Caldwell, formerly director of audio-visual services at the Capstone, writes to friends at University that the extensive educational revision in the development program calls for a shift to vocational education, with emphasis on agricultural development.

"A significant achievement here," he writes, "is the change of curricula according to area and the understanding that experimentation on a local basis is desirable."

Jordan is a key constitutional monarchy in Southwest Asia bordering Israel, Syria, Iraq and Saudia Arabia. Population is about 1,527,000, most of whom speak Arabic and are Arab Moslems. There are also 180,000 Arab Christians and 10,000 Moslem Circassians in the country.

Law Practice Economics Theme Of B'ham Forum

Economics of Law Practice was the theme of a forum held in Birmingham Friday, May 20.

Resource speakers came from Mississippi and North Carolina to take part in the Continuing Legal Education program, first of a series, presented by local bar associations in cooperation with the Alabama Bar Association and the University of Alabama.

The forum touched on a phase often neglected; namely, how the efficiency of a law office in matters such as record keeping, accounting, and use of office machines means lower operating costs.

The program was arranged by Henry A. Leslie, legal education chairman, Birmingham Bar; and Douglas Lanford, U. of A., and Alabama Bar Association director of Continuing Legal Education.

South Needs Educational Excellence States Heald

"The imperative for educational excellence is not confined to any single state or region. But it is perhaps greater for the South because this region is in the midst of an economic revolution."

Dr. Henry T. Heald, President of the Ford Foundation, expanded on this theme during the 1960 Commerce Day Convocation May 5.

The problems accompanying the economic revolution, said Dr. Heald, are magnified because the "revolution is spread over a few years instead of centuries."

He expressed concern that "the growth of an industrial empire be accompanied by comparable gains in social and cultural resources. It will ultimately profit the South little if its best people migrate elsewhere for lack of educational and intellectual resources here," he said.

Music Camp Draws 280

A concert featuring nearly 300 high school musicians climaxed the annual University of Alabama Music Camp on June 10 in the Capstone's Foster Auditorium.

The Camp, which this year drew 280 youngsters for two weeks of musical training, is sponsored by the University annually since .....

Chief sections of the camp and their leaders were: Band, Col. Carleton K. Butler; Orchestra, Roland Johnson; horus, William Steven; Piano, Roy McAllister.

Yale H. Ellis was director of the camp which had as leaders and chaperones members of the UA music faculty and musicians from all over the state.

U. of A. Taking Classes to Students In New Experimental Center Program

Reminiscent of rural "circuit-riding" preachers of old are six U. of A mathematics teacher-commuters who, despite rain, snow and maladjusted carburetors, always manage to reach their outlying classrooms on schedule.

The six are part of an experiment to provide an in-service graduate course in math to high school teachers throughout the state. Three UA Centers, Birmingham, Huntsville and Mobile, are the site of classes.

The course, Concepts of Modern Mathematics, is designed to provide depth and breadth of insight into the subject matter, and to bring secondary school teachers up to date on newer concepts in math.

A total of 4100 miles is covered every year by each of the group, mostly by automobile. Each teacher visits the three Centers in turn, speaking on his field of specialization.

A tight, carefully - planned schedule enables the teachers to leave home base at the Capstone immediately after classes end there, then drive on to their Center appointments.

The six agree that enthusiasm of the students—averaging 15 per class—makes up for the few hardships encountered. One math teacher in a small South Alabama town travels 130 miles each way by bus to meet her weekly class at the Mobile Center.

Participating in the experiment in long-distance teaching are: Dr. Julian Mancill, mathematics department head; Dr. Charles Seebeck; Dr. James Buck; Dr. Holland Filgo; Dr. James Howell; and Mrs. Ayrlene Jones.

Coordinator for the project is Dr. Ralph Chermock, UA professor of biology and Director of Arts and Sciences activities in the Extension Division.

The University is able to offer the In-Service Institution through a grant from the National Science Foundation.

Trio Joins Huntsville Engineering Faculty

The U. of A Huntsville Center announces the addition of three new engineering faculty members to its staff.

Given the rank of Assistant Professor of Engineering were P. J. deFries, R. N. Braswell, and Dr. H. A. Gorges.

DeFries received the Diplom Ingenieur from the Institute of Technology of Darmstadt, Germany, in electrical engineering. He has been development engineer with General Electric Co. and is currently an electronics scientist in the Guidance and Control Laboratory at Redstone Arsenal.

Braswell holds the B.S. and M.S. degree in industrial engineering from the University of Alabama. He was a senior quality engineer with Hughes Aircraft Corp. and is now with Brown Engineering Co. He has been the recipient of the Science Achievement Award.

Dr. Gorges received his Doctor of Engineering degree in mechanical engineering (cum laude) from the Technical University of Hanover, Germany, and a Diplom Ingenieur (summa cum laude) from Technical University of Dresden, Germany. He has worked with the Minister of Supply in England and was officer in charge of the weapons research establishment in Salisbury, South Australia. He was previously a consultant for the steam turbine industry in Germany. At present he is scientific assistant to the director of the Aeroballistics Laboratory, Redstone Arsenal.

Enrollment For Spring Quarter Rises Over '59

Enrollment for the spring quarter of 1960 in the University's Residence Centers and Extension Classes rose slightly over the 1959 spring quarter registration.

Enrollment for the present quarter this year was 4,742 persons, compared with 4,195 registrations in 1959. There was a rise of 547 enrollments.

Total for the six residence centers for 1960 was 4,451; for 1959, 3,774.

In 1960 three Extension Class programs enrolled 291 persons; in 1959, 421 persons. The 1960 figure includes Selma, with 146, Sylacauga with 17, and Tuscaloosa with 128.

The breakdown on Center enrollment this year was as follows: Birmingham, 1,794; Dothan, 274; Gadsden, 177; Huntsville, 1,110; Mobile, 531; and Montgomery, 565.

Huntsville Will Offer Full Summer Program

The Huntsville Center has announced a full program of college work for the summer term, to begin June 10.

More than 75 courses are being offered, including courses in the College of Arts and Sciences, the College of Engineering and the School of Commerce and Business Administration.

Summer enrollment in 1959 totaled more than 700 students.

R. Roberts Is Named To Counseling Group

Dr. Ralph Roberts, University of Alabama professor of Education, has been named to the Committee on Guidance and Counseling of the Southern Regional Education Board.

Dr. Roberts is chairman of the counseling and guidance program in the Capstone's College of Education.

Seniors Make Winning Year In Debate

The resounding success of the 1959-60 debate season at the University of Alabama is due in large part to five graduating seniors on the squad, two of whom progressed through the Alabama High School Forensics program.

Bill Bouldin debated for Shades-Valley High School in Birmingham, while James John Stathis carried debate honors for Birmingham's Phillips High School under the UA Extension-sponsored forensic program.

Other graduating members of the debate squad are Barbara Heath, Dothan; Marjorie Meyer, Starkville, Miss., and Annette Nevin, Kinston.

A total of 15 trophies, 39 certificates, 21 medals and 9 plaques were won in the course of the 13 tournament season by Capstone debaters.

Mrs. Annabel D. Hagood, Director of Forensics at the Capstone, said that the 78 percent victory record compiled by UA debaters this past season is "undoubtedly one of the best averages in the country."

During the season, 17 Alabama debaters received either a First Place or Superior award.

Franklin Is Awarded Ed.D. From Peabody

Elton Franklin, assistant professor in Commerce and Business Administration at the Huntsville Center, will receive his Doctor of Education degree June 3 from Peabody College, Nashville.

Franklin, a native of Tuscaloosa County, joined the Huntsville Center in 1957 after teaching in the U.S. Army, Mississippi Southern College, and Jacksonville (Florida) University.

Kiger Receives Grant

Dr. Joseph C. Kiger, associate professor of history at the Birmingham Center, has received a fellowship for 1960-61 from the John Simon Guggenheim Memorial Foundation to continue his study of the national learned societies in the United States.

Dr. Kiger's study was inaugurated under a 1959 summer grant from the UA Research Committee.

A native of Kentucky, he earned degrees from Birmingham-Southern College, the University of Alabama, and Vanderbilt University.

ten Hoor To Step Down as A&S Dean

An outstanding scholar, educator, and administrator will retire this month from the University after 16 years of service.

Dr. Marten ten Hoor, Dean of the UA College of Arts and Sciences since 1944, after June 30 will be able to continue one of his greatest loves—writing.

A partial list of his distinguished honors include serving as chairman of the Council, Oak Ridge Institute of Nuclear Studies; past president, American Conference of Academic Deans; and past president of the American Philosophical Association, Western Division.

His book "Freedom Limited," published by the UA Press, has enjoyed continuing sales in this country and was translated into Japanese and Spanish. He is author or co-author of seven others.

He is now serving as Senator, Southcentral District for the national governing board of Phi Beta Kappa. He is past president of the national Omicron Delta Kappa, leadership honorary.

A native of Franeker, Friesland, the Netherlands, Dr. ten Hoor taught at the University of Illinois, and at Tulane University for 21 years before coming to the Capstone.

'BAMA'S WINNING DEBATERS . . . Five graduating seniors who made this a most successful forensic year for the University of Alabama are, from left to right: back row, Bill Bouldin and Jim Stathis, both of Birmingham; middle row, Barbara Heath, Dothan, and Annette Nevin, Kinston; bottom row, Marjorie Meyer, Starkville, Miss.

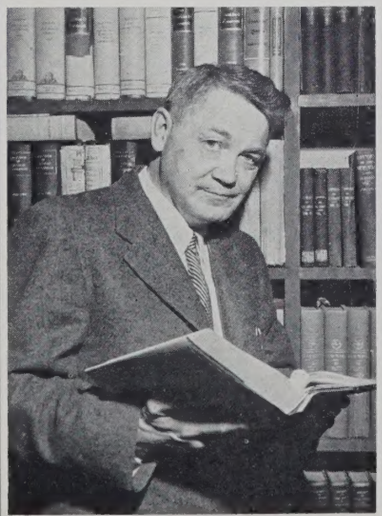
Morality Affects Education, Says Columbia Professor

Adult morality sets the tone in which our society and hence education operates. Professor Henry Steel Commager, speaking on the matter on CBS-TV this past season had many pithy comments and wise observations.

Earlier (1952), he had written: "This much is clear. Our problem is not exclusively or even primarily one of corruption in government. It's one of public corruption. It's not one of political immorality. It is one of social immorality."

This professor of history and American studies at Amherst and Columbia University was pressed for more details on the show "Dollar Morality," part of the splendid CBS series For Your Information or FYI.

The problem is still with us, he indicated, and will be for a long time. "It's some 20 years since Professor Sutherland wrote a book, entitled "White Collar Crime" and it's over 50 years since Mr. Ross wrote a book on "Sin in Society" and I seem to remember that the Bible admonishes us that the love of money is the root of all evil."



Henry S. Commager

He did not think the moral climate "worse" in the U.S. today than in the past.

"No, I don't think that any one generation is worse than another generation. Sometimes it can be tempted into wickedness as the generation of Germans under Hitler was, but by and large in our country I think there's about the same body of morality and moral standard in any one generation.

"Of course, we have a long tradition of immorality and lawlessness in our country. The immorality toward the the American Indian, the illegality, to use no harsher word, of land frauds over perhaps 150 years, great timber thefts and timber frauds, the railroad land frauds, and all through the 80's and 90's of the last century the muck-rakers denouncing the immorality and illegality of American life, private and public. This is a very old and a very current problem."

He did not think there was or is a decline in individual morality. If anything, believes Dr. Commager, standards of individual morality are "rather higher than the standards of collective morality." Neither did he think the problem was peculiar to the U.S.

"It is," he said, "a phenomenon of Western and corporate and urban society . . . more aggravated in the U.S. than elsewhere."

Why?

"In the first place, we're more heterogeneous, that is, we don't have the community background and history of the common standards that the English people have, for example, or the Swedish people.

(Continued on pg. 4, col. 2)

Taylor, Ausmus Teach, Research, This Summer

Two University of Alabama Extension Division members will take significant resource and teaching positions outside the state this summer.

Graydon Ausmus, director of the Capstone's Broadcasting Services, will take a three-month leave of absence to serve as executive secretary for the Governor's Interim Educational TV Study Commission in Ohio.

Dr. Hugh Taylor, UA director of High School Counseling and Advisory Services, will be at the University of Delaware to teach two courses, School Business Management and School and Community. Both courses are at the graduate level.

Taylor is a veteran Alabama teacher, with 35 years experience in public schools.

Ausmus will be assisting on a project charged with blueprinting a plan to provide a TV network of service to Ohio elementary and secondary schools and colleges.

Special Classes

(Continued from pg. 1)

businesses was conducted by the Birmingham Center last spring over the Alabama Educational Television Network. Richard Evans, Coordinator of Special Courses at the Center, conducted the series.

Variety, a 20-week series done by the Birmingham Center over ETV, featured programs on art and the theater. Mrs. Foley was television teacher.

Thirty-eight supervisors from hospitals in the Birmingham area completed a special course in Management Development for Hospital Supervisors offered by the Birmingham Center in the spring. Richard Evans was course conductor.

Town and Gown Civic Theatre, an integral part of the Birmingham Center, presented six productions during the year, drawing a total of 9,000 persons in attendance. Three children's plays were given in cooperation with Birmingham Junior Programs, with 3,000 in attendance.

Montgomery Offers Russian Survey

Prof. Kenneth Whiting, Russian affairs specialist at the Air University, Montgomery, was principal lecturer and course coordinator for the special course "A Survey of the Soviet Union" held at the Montgomery Center during the winter. The course covered such areas as geography, natural resources, history, foreign policy, and economics.

Forty-four persons enrolled for this course.

"Introduction to Electronic Data Processing" was a special course offered by the Montgomery Center which drew 57 students. The course, meeting two hours weekly from late January to May 10, covered such topics as types of computers, diagramming, coding Univac, computer scheduling, integrated data processing, use of magnetic tapes, automatic programming and other areas of operation and management .

Chief Instructor for the course was Lt. Col. Clair R. Miller, Chief of the Data Processing Section, Air University, Montgomery.

'BAMA COMMERCE DAY PRINCIPALS . . . This quartet had much to do with making the 1960 Commerce Day on May 5 one of the "best ever." From left to right are: Dr. W. C. Flewellen, Acting Dean of Commerce School; Marvin Epstein, Birmingham, president of the School; Dr. Henry Heald, president of the Ford Foundation and chief speaker; and Alex Pow, UA Director for Contract and Grant Development.

Commager

(Continued from pg. 3)

"We're not only a heterogeneous people with varied backgrounds, we're a very mobile people. We're people who've been uprooted and transplanted and moved around a great deal. We're not only mobile geographically, we're mobile socially. Which means that everybody is going either up or down the economic and the social ladder, and these things tend to fragment the standards of an economy and of a society, even of a morality, because they . . . free the individual, as it were, from the crest of custom, which, once broken, is very hard to put together again."

The historian sees America as a country where every individual is "under continuous temptation" to improve himself.

There is a confusion about responsibility in a rapidly growing society that offers opportunities for exploiting natural resources.

"Moral standards do not exist in a vacuum. They are not something upon which we can draw or refrain from drawing at will. They are not something we can invoke when we are weary of corruption and banish when we are complacent or content. They are a product of society and are constant, within the framework of one generation. If we are indeed confronted with a breakdown of morality it's important to know why it has broken down," concluded the nationally known historian.

Far-Reaching Fingers

(Continued from pg. 1)

mentary and high schools in extending and broadening their educational opportunities.

For example, ETV services of this kind were used last year in Gadsden High School by more than 600 students—46 in Spanish, 75 in physics, 80 in chemistry, and 400 in biology.

Five major services were extended to high school students. These were concerned with educational and vocational counseling, journalism, music, forensics, and audio-visual aids.

Last year approximately 13,000 people took part in 55 conferences held on the University campus. About the same number participated in conferences sponsored by the University and held elsewhere in the state.

Hawley Does Survey On Alabama Economy

"The growing strength of Alabama's economy is clearly reflected in the latest available estimates of personal income."

This word comes in an extensive survey in "Income and Population in Alabama" by Marion H. Hawley of the Bureau of Business Research, UA Commerce School. The report was published late in May.

Despite the fact that a portion of the year was characterized by distressed economic conditions, personal income in the state reached a new high of $4 billion, 364 million in 1958, she reports.

From an income point of view, an assessment of the impact of these developments tends to indicate that the economy of Alabama fared better during 1958 than did that of the nation as a whole.

Per capita personal income in eight counties was above the Alabama average in 1958. These were Jefferson, Etowah, Colbert, Mobile, Montgomery, Dale, Calhoun and Madison.

E. J. Finnell, Jr. Elected To Post

E. J. Finnell, Jr., Director of Engineering Extension Services at the Capstone, was recently elected secretary of the Alabama Water and Sewage Association.

The election took place during a meeting of the group at Auburn University.

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